AMERICAN STATE TRIALS

A Collection of the Important and Interesting Criminal Trials which have taken place in the United States, from the beginning of our Government to the Present Day.

WITH NOTES AND ANNOTATIONS

JOHN D. LAWSON, LL.D.
EDITOR

VOLUME XIV

[illegible]

ST. LOUIS
THOMAS LAW BOOK CO.
1923

TABLE OF TRIALS.

Page

The Trial of CHARLES J. GUITEAU *for the Murder of* PRESIDENT GARFIELD, *Washington, D. C., 1881* . 1-158

The Trial of LEON F. CZOLGOSZ *for the Murder of* PRESIDENT McKINLEY, *Buffalo, N. Y., 1901* 159-231

The Trial of THOMAS BIRD *and* HANS HANSEN *for Piracy and Murder, Portland, Maine, 1790* . . . 232-236

The Trial of LEVI *and* LABAN KENNISTON *for Robbery, Ipswich, Massachusetts, 1817* - 237-290

The Trial of WILLIAM LLOYD GARRISON *for Libel, Baltimore, Maryland, 1830* 291-298

The Trial of RUGGLES HUBBARD *and* JAMES L. BELL, *Sheriff and Jailor, for preventing an attorney from entering the jail to see a client, New York City, 1815* . 299-315

The Trial of GRACE A. LUSK *for the murder of* MRS. NEWMAN ROBERTS, *Waukesha, Wisconsin, 1918* . 316-491

The Trial of JAMES DALTON *for False Pretense, New York City, 1823* 492-504

The Trial of JOSEPH T. BUCKINGHAM *for Libel, Boston, Massachusetts, 1824* 505-529

The second Trial of JOSEPH T. BUCKINGHAM *for Libel, Boston, Massachusetts, 1824* 530-547

The Trial of ISAAC COTTERAL *and* PETER CRANNEL *for Arson, Troy, N. Y.* 548-552

The Trial of JOHN WARD *for the Murder of* MRS. EPHRIAM GRISWOLD, *Burlington, Vermont, 1866* . . 553-582

The Trial of JOSEPH NEET *and others for Sabbath Breaking, Lexington, Missouri, 1899* 583-598

The Trial of HENRY B. HAGERMAN *for Assault with intent to murder, New York City, 1818* 599-624

THE TRIAL OF LEON F. CZOLGOSZ FOR THE MURDER OF PRESIDENT McKINLEY, BUFFALO, NEW YORK, 1901.

THE NARRATIVE.

In September, 1901, President McKinley[1] paid an official visit to the Pan-American Exhibition at Buffalo, N. Y. September 5th was set apart as President's Day, when he delivered on the grounds an address to a great assemblage. On the morning of September 6th he was taken by the Exposition and city officials on an excursion to Niagara Falls, from which he returned at 4 p. m., to the Temple of Music, where a public reception was held. Here the President (at his left and right the President of the Exposition[2] and his secretary[3] and surrounded by Secret Service detectives and soldiers) shook hands with a long line of citizens of every rank and condition. The reception was nearly over, when the next man in line, who had the appearance of a young work-

[1] McKinley, William (1843-1901). Born Niles, Ohio. His parents being poor, at the age of seventeen he became a country school teacher. In 1868 he enlisted in the 23d Ohio, its Colonel being Rutherford B. Hayes. He rose by successive promotions to the rank of Major and was mustered out of service in July, 1865. Studied law and began the practice in Canton, 1867; Member House of Representatives, 1876-1890; Governor of Ohio; elected President of the United States, November, 1896, and re-elected November, 1900.

[2] Milburn, John George. Born Sunderland, Eng., 1851; studied law at Batavia, N. Y., and practiced in Buffalo and New York City; President Pan-American Exposition, 1901.

[3] Cortelyou, George Bruce. Born New York City, 1862; Grad. State Normal, Westfield, Mass., 1882; Georgetown Univ. (LL. B.), 1891; (LL. D. Hon.), 1903; Stenographer to President Cleveland, 1885, and secretary to Presidents McKinley and Roosevelt, 1898-1903; Secretary of Commerce and Labor, 1903; Chmn. Nat. Rep. Com., 1904; Postmaster General, 1905-1907; Secretary of Treasury, 1907-1909; Pres. Con. Gas Co., N. Y.

man, but whose right hand was wrapped in a handkerchief as if it were wounded, offered his left to the President, who grasped it. Like a flash he withdrew his right hand and pressing it against the President's body, fired into him two shots from a pistol concealed in the handkerchief. The President fell back in a chair, exclaiming, "May God forgive him." The guards sprang upon the assassin, bore him to the ground, one of them striking him a fierce blow in the face, his pistol was secured and he was at once taken to jail after a narrow escape from being lynched.

President McKinley was removed to the home of Mr. Milburn where a surgical operation disclosed that one of the bullets had done no harm, but the other had passed through his stomach, lodged in his back and could not be located. For several days he seemed to be doing well and on September 11th his physicians thought him out of danger, but two days later there came a sudden change and he died on the morning of September 14th.

The assassin was Leon F. Czolgosz, a workman 28 years old, born in Detroit, Michigan, but of foreign parents. He stated that he shot President McKinley because he thought it was his duty. He did not believe that one man should have so much service and another man should have none, and all the others regard it as a privilege to stand by and render services; that he understood the consequences and was willing to take his chances. He had gone to Niagara Falls in the morning intending to kill the President there, but was not able to get near enough to him. He then returned to the Exposition grounds intending to get near him and shoot him. He arranged his revolver, covering it with his handkerchief in his right hand. If he had not been seized and thrown to the ground he would have fired other shots. He had been thinking about killing the President for several days before that; he had determined to kill him at the first opportunity, for he thought the President was a tyrant and should be removed; he had for several years been studying the doctrines of anarchy; he believed in no

government, no marriage relation and had been influenced by the teachings of Emma Goldman.

Notwithstanding the great grief and indignation of the whole Nation and the demand that the assassin should be promptly punished, the enormity of the crime suggested to most people that it could only be the act of an insane man. The legal officials in the city of Buffalo, representing not only the people of the State of New York but those of the whole Nation, gave to the accused every consideration possible.[4] The Bar Association of the County, through its presi-

[4] In a letter to the editor, Mr. Penney, the then Public Prosecutor of Erie County, says:

"Immediately upon the announcement of the shooting of President McKinley the people of Buffalo became greatly excited. Immense crowds began to congregate in various places, especially around Police Headquarters. It was the consensus of opinion of those in charge of the Police and the Prosecuting Department, of which I happened to be the head, that it needed but a spark to start a very serious situation. It was our thought that if anyone was daring enough to attempt to become a leader the mob would undoubtedly make an effort to take the prisoner from the custody of the authorities and that a disgraceful tragedy would follow. We immediately gave our attention to the task of averting such a disaster and perfected plans to keep from the crowd the knowledge of the whereabouts of the prisoner. After a conference with General Bull, who was then in charge of the Police, and after a brief interrogation of the man at Police Hearquarters we had him quietly and secretly taken from the rear of the building and conveyed in a private conveyance to the Penitentiary, instead of the Jail, which was the usual place to which a prisoner was taken. Under my direction there were assigned to be the prisoner's guards a sufficient number of selected men, known to be trustworthy, so that there was always at least two men on guard with the prisoner from the time of his arrest until after his trial.

The purpose of keeping so close a guard of the prisoner was twofold: (1) to safeguard him from any mob attack which might be incited at the time; (2) but more especially to prevent the prisoner from being interviewed by any of the sensational news writers of the day who were here in great numbers from all over the country.

When news of this unfortunate tragedy reached me I recalled to mind the disgraceful scenes that surrounded the detention and trial of the assassin of President Garfield in Washington, the man Guiteau, and I was determined so far as lay within my power not only to avoid a repetition of those disgraceful scenes, but to make

dent, Mr. Adelbert Moot[5] induced two of the oldest and most respected members of the New York Bar, both of them retired Judges of its Supreme Court, to accept from a high sense of duty to the public, the defense of the prisoner; and

the prosecution of Czolgosz an orderly, dignified procedure that could in no way bring criticism upon our own community or upon our form of government generally.

I do not believe that there were many at the time, and but very few now, who realized the extraordinary difficulties which we faced and the great pressure that was brought to bear upon myself, my office and General Bull of the Police Department to gain access to this man Czolgosz. Large sums of money were offered to my subordinates to procure from them even their recollections of what they had seen of this man or heard of his statements, but I was fortunate enough to be surrounded by trustworthy people. and, as you will recall, not a word was printed in the newspapers and not a single reporter had access to this prisoner; in fact, not any person except a few of the officials in charge of his prosecution and his own counsel.

During the time when our beloved President McKinley was suffering from his wounds and before he died members of his Cabinet and Vice-President Roosevelt were here; also the President's Secretary, Mr. Cortelyou. They were, of course, primarily interested in the condition of the President, but they were also vitally interested in the procedure attendant upon the prosecution of his assassin. I had many conferences with several of them, including Mr. Root and Mr. Cortelyou and Vice-President Roosevelt, and I was very glad to find that my own ideas of how the procedure for the prosecution of this man should be conducted were approved by all of them; that is, that all the proceedings should be conducted with the utmost dignity; that every sensational feature should be eliminated; that this man should have every right extended to him under our laws; that there should be permitted no feeling or expression that might be termed "vengeance" for the great wrong that he had perpetrated upon our country. In carrying out those ideas everything was done for this man that would have been done for any other individual charged with any crime—even more, because he was given the advantage of having the best legal counsel that could be obtained, besides having the best medical advice in the country.

In my judgment, the greatest and most important aspect of that situation was keeping the whole proceedings on such a high plane; keeping the custody of the prisoner in the beginning so free from sensationalism; preventing an outbreak of the populace to commit unlawful acts; and carrying the whole thing through in such an orderly manner. Many of the things last mentioned above were not thought of by the average individual and certainly were not

experts to examine his mental condition selected by his counsel were allowed free access to him and both they and his lawyers were paid out of the public treasury[6] The trial judge refused to accept his plea of guilty in order that the fullest examination should be made as to his legal responsibility and that the question of his guilt should be passed upon by twelve of the citizens of the county where the crime was committed. And after his sentence his sanity was again examined by experts on medical diseases.

His trial, which began on September 23d, lasted only two days, a verdict of guilty being returned in half an hour. The question of insanity was not raised, except in the speeches to the jury, as all the experts reported that he was sane and no witness appeared in his defense.

On October 29th he was electrocuted in the State Prison at Auburn. He walked quietly to the chair and said:

"I killed the President because he was the enemy of the good people; of the good working people. I am not sorry for the crime, that's all there is about it."

At that moment the current was turned on; his body bounded against the back of the chair and the Anarchist was dead. Several specialists then held an autopsy and found all the organs, including the brain, in a perfectly normal condition. A grave had been prepared in the prison

known to most people, but they were very much more important than the trial itself or what is ordinarily called the prosecution of the criminal. The first unofficial interview with Czolgosz was had after his conviction and after he had been put into the custody of the Sheriff to be transported to Auburn. All of this was not strictly a part of the trial, but in my judgment, was much more important than the actual trial itself."

[5] MOOT, ADELBERT. Born, Allen, N. Y., 1854; Grad. State Normal School and Albany Law School. Began practice, Nunda, N. Y., 1876, and in Buffalo, since 1879; Presdt. Unitarian Congress, 1915; Commr. of Statutory Consolidation, N. Y., Regent Univ. of N. Y.; Presdt. State Bar Assn, 1909-1910.

[6] Mr. Lewis and Mr. Titus received a fee of $350 each. The alienists who examined him received: Dr. Carlos F. McDonald, $300; Dr. Joseph Fowler, $200; Dr. Floyd S. Crego, $200, and Dr. James W. Putnam $200.

yard into which was emptied six barrels of quicklime and a carboy of sulphuric acid, and in this the body of Czolgosz was placed.

THE TRIAL.[7]

In the Supreme Court, Buffalo, New York, 1901.

HON. TRUMAN C. WHITE,[8] *Judge.*

September 16.

Today at 4:40 p. m., the grand jury of Erie County returned an indictment charging Leon F. Czolgosz, alias Fred R. Nieman, with the shooting of William McKinley on September 6, 1901, from the effects of which he died on September 14. At 5:40 the prisoner was brought into the County Court, JUDGE EDWARD K. EMERY[9] presiding. He was of medium height and size, fair hair and complexion, with a face not bad, but rather simple and loutish in its

[7] *Bibliography.* "The trial, execution, autopsy and mental status of Leon F. Czolgosz, alias Fred Nieman. By Carlos F. MacDonald, A. M. M. D. With a report of the post-mortem examination, by Edward Spitzka. * * * Baltimore, 1902. (From American journal of insanity. Vol. LVIII, No. 3, 1902.)"

"Official Report of the Experts for the People in the case of The People vs. Leon F. Czolgosz. By Joseph Fowler, M. D., of Buffalo, N. Y.; Floyd S. Crego, M. D., Professor of Insanity and Brain Diseases in the University of Buffalo; James W. Putnam, M. D., Professor of Nervous Diseases in the University of Buffalo, N. Y. Reprinted from the Philadelphia Medical Journal, 1901."

"The Trial of the Anarchist Murderer, Czolgosz. Leroy Parker. The Yale Law Journal, vol. 11, pp. 85-94."

"The Buffalo Express and the Buffalo Courier. Sept. 22-26, 1901."

"The Washington Star, Sept. 23-25, 1901."

"The New York Times, Sept. 23-25, 1901."

"The Life of William McKinley" (Fallows).

[8] WHITE, TRUMAN CLARK (1840-1912). Born Perrysburg, N. Y. Enlisted in 10th N. Y. Cavalry, 1861, and discharged (1st Lieut.) 1865. Admitted to N. Y. Bar, 1867. Judge Superior Court 1891-1910.

[9] EMERY, EDWARD KELLOGG. Born Aurora, N. Y., 1851. Admitted to Bar, 1870 and practiced in Buffalo; Member N. Y. Assembly, 1880; Judge Erie County Court, 1896-1906; Judge Supreme Court, 1907.

expression. He had the look of an ordinary country lad with little experience in the world.

Mr. Penney, District Attorney. Czolgosz have you a lawyer?

The prisoner shook his head and when the question was repeated he gave a simple stare.

Mr. Penney. Czolgosz you have been indicted for murder in the first degree. Do you want counsel to defend you? Look at me and answer.

The prisoner remained mute.

Mr. Penney. As the accused declines to answer, I suggest that counsel be assigned by the court to advise him what to do and to defend him.

JUDGE EMERY. Czolgosz, you have appeared for arraignment in court without counsel. The law makes it the duty of the court to assign counsel for you. The Bar Association of our county has considered the matter and has suggested the names of certain men of high character for such assignment. The Court has seriously considered the question and after such consideration has concluded to follow the suggestions made by the association. The Court therefore assigns the Hon. Loran L. Lewis and the Hon. Robert C. Titus as your counsel.[10]

In the unpublished autobiography of Judge Lewis possessed by his family, he writes of the interview of Mr. Moot, President of the Erie County Bar Association, with him, to have himself and ex-Judge Titus to act as counsel for Czolgosz upon the designation of the Court as follows:

"He informed me of the action of the Bar Association. My inclination was to refuse to act and I so told Mr. Moot, but that I would consider the matter. Judge Titus was at that time out of the city. Many of my friends advised me not to undertake the defense. My sons thought I ought not to accept it. Their objections were that the trial would make serious drafts upon my nervous system. I received letters objecting to any defense being made of the assassin (see post p. 205). I was at the time 76 years old, but was in fair physical condition. Upon reflection, I concluded that it was an opportunity to teach the people of the country a

[10] The Bar Association of Erie County through its President, Adelbert Moot and Secretary James L. Quackenbush had suggested to Judge Emery that as the accused seemed to be friendless and without money, it was important that counsel should be assigned by the court of such experience and professional standing as to insure that the highest traditions of the profession would be upheld and that the trial would be dignified, just and impartial. It asked that two ex-Judges of the Supreme court who had been in active practice for many years should be selected. They were Loran L. Lewis and Robert C. Titus, whose consent to serve had been obtained by Mr. Moot.

wholesome lesson by conducting the trial in an orderly, proper manner, without any attempt to delay the trial by unnecessary subterfuges and objections. To see, of course, that the defendant had everything done to prevent his conviction that could be legally and properly done, and I concluded to act as his counsel with Judge Titus, and so informed the committee. After our designation by the court, I called at the jail to have an interview with my client. I had him brought out of the cell, informed him that I had been designated by the court to act as his counsel and that I had come over to have an interview and learn about the defense. He looked me in the eyes but made no reply. I made several attempts to get him to talk, but he uttered not a word. Finding it impossible to get any information from him, I told the officer to put him back in the cell, and left. Judge Titus and I consulted about the case. We knew, of course, that the only possible defense was to show that Czolgosz was insane at the time of the commission of the offense. We obtained the consent of the court to employ some celebrated alienists and did so. They examined him carefully and reported to us that they believed him to be sane. The trial came on lasting part of two days. At the conclusion of the evidence on the part of the people, I inquired of Czolgosz if he wished to be a witness. He shook his head and that was the only recognition that I had from him during my connection with the case. As I expected to make the principal address to the jury, and assuming that a synopsis of my address would be published in many of the newspapers in the country, and being satisfied that the jury would, of course, convict the defendant, I made up my mind to use the case as an object lesson to the people, to devote a large part of my address to discouraging the growing tendency to dispose of criminals by lynching them."

The consent of these distinguished lawyers to act as counsel for this murderer was not easily obtained. "I had quite a time," writes Mr. Moot, "in inducing Judges Lewis and Titus to serve as counsel for Czolgosz, should they be appointed by the Court, because friends of Judge Titus still thought he was a Democratic political possibility in this State; that he might still, perhaps, become Governor of the State, because he was in the State Senate when Grover Cleveland was nominated for Governor, and there was a very strong body of Democrats throughout the State who wished to make Senator Titus the candidate for Governor. As a Judge of our Superior and Supreme Courts, Judge Titus had made a good record, and so it was not unnatural for his friends to think a man of his standing, experience, ability, and good health, was still a political possibility. Consequently, these men began telegraphing him, at a Masonic gathering in Milwaukee, where he was, to refuse to act, if designated, and when he returned, I had an interview, by appointment, with Judge Lewis and Judge Titus, in the office of Judge Lewis, in which Judge Titus quite decidedly intimated that he should refuse to act. I urged that he should act, as a public duty, as a duty to his profession, and as a duty to his country, because it was all-

important that counsel for the prisoner should be so experienced, so wise, and so able, that the country would know they would have defended the prisoner stoutly, on the ground of his insanity, were it possible to find facts upon which to rest such a defense. I told him that I would be delighted to have the prisoner found to be insane, because this country would stand better in its own eyes, and in the eyes of Europe, should that be the result of the trial. I called his attention to what President McKinley had said, to the effect that the man must have been insane, to shoot him, and said those words of the President himself would be invaluable in establishing such a defense, if the facts existed upon which to establish it. I was addressing myself to Judge Titus, but Judge Lewis was listening all the time and saying nothing. At the time, I did not know that Judge Lewis's whole family, and his friends, had also urged him not to accept a designation, because the public would never forgive so ardent an admirer of President McKinley, should he defend the assassin of McKinley. Finally, after quite a long conversation with Judge Titus, Judge Lewis turned to Judge Titus and said, in substance: 'Judge, we are not cowards, and if it is our duty to defend Czolgosz, we will defend him.' Judge Titus, who had been a District Attorney, and opposed to Judge Lewis in the trial of the celebrated Manke case, replied: 'No, we are not cowards, and, if you think it is our duty to defend him, we will defend him.' They then fell into a short conversation with each other, in which they discussed the situation, and the controlling consideration with them was, that if they would not defend Czolgosz, who would, except some unfit sensationalist. Before they left the room, they promised me they would defend, if they were designated to defend Czolgosz, and then, as the President of our local Bar Association, I suggested their designation by the Court to defend Czolgosz."

September 17.

The indictment was read to the *prisoner.*

Mr. Penney. Leon Czolgosz, how do you plead?

The prisoner made no reply.

Mr. Penney. Do you understand what I have read to you? Do you understand that you are charged with the crime of murder in the first degree? You can say yes or no.

The prisoner remained mute.

Mr. Lewis said that he had called upon the prisoner and had not been able to learn any wish upon his part as to the employment of counsel; that he appeared informally to enter a plea of not guilty for the defendant, the law requiring that such a plea should be entered under these circumstances. He reserved the right, however, after con-

sultation with Judge Titus, who was then out of town, if they concluded not to make an application for the assignment of other counsel, to withdraw the plea of not guilty, and interpose, if thought advisable, another plea in the case in the way of a demurrer to the indictment. Reserving this right, he entered the plea of not guilty for the defendant.

The District Attorney moved that the indictment be transferred to the Supreme Court and gave notice that the trial would begin on Monday next, the first day of the term.

Mr. Lewis said he knew no reason why the defense would not be ready.

THE COURT granted the motion.

Mr. Lewis said that medical experts, at the instance of the People, had already examined the accused; he, therefore, wished an order permitting experts selected by the defense to make a similar examination as to his sanity.

The District Attorney said that every facility would be given the defense to do so.

THE COURT granted the order.

September 23.

The prisoner was arraigned today in the Supreme Court.

Thomas Penney,[11] District Attorney and *Frederick Haller,* Assistant District Attorney, for the People; *Loran L. Lewis,*[12] *Robert C. Titus,*[13] and *Carlton E. Ladd* for the Prisoner.

[11] PENNEY, THOMAS. Born London, Eng., 1859; Ed. at Williston Acad. Easthampton, Mass. and Yale, A. B. 1887; LL. B. 1889, Admitted to Bar, Conn. 1889; N. Y. 1890; Began practice at Buffalo: Asst. Dist. Atty. Erie Co. 1894-1897; Dist. Atty, 1897-1902; Presdt. Inter. R. R. Co. 1908-1913; V. P. and General Counsel, 1914; Resumed practice of Law 1913; Grand Master Masons, N. Y., 1916-1918.

[12] LEWIS, LORAN LUDOWICK (1825-1911.) Born Auburn, N. Y.; admitted to Bar 1848 and practiced law in Buffalo; State Senator 1869-1873; Judge Supreme Court 1883-1897; returned to practice in Buffalo and died there. Before he went on the bench he was for years the leading trial lawyer in western New York.

[13] TITUS, ROBERT CYRUS (1839-1918). Born Eden, N. Y. Grad. Oberlin Coll. Taught school and studied law; enlisted in Civil War; admitted to Bar, 1865; Clerk Erie Co., N. Y., 1865; Practiced law in Buffalo for 30 years; District Atty. (Erie Co.); State Senator; Chief Judge Superior Court of Buffalo, 1885-1894; Judge Supreme Court, N. Y., 1896-1900.

JUDGE WHITE. Czolgosz, you are indicated and charged with having committed the crime of murder in the first degree. It is alleged that you on the 6th day of September of this year unlawfully shot and killed William McKinley contrary to law, how do you plead?[14]

The Prisoner. Guilty.

THE COURT. That plea cannot be accepted in this Court. The Clerk will enter a plea of not guilty and we will proceed with the trial.

Mr. Penney. This defendant appeared in the County Court last week, and at that time Judge Emery assigned as his Counsel the Hon. Loran L. Lewis and the Hon. Robert C. Titus, and his associate, Mr. Ladd, to attend to the case and ascertain the rights that this man had and to put in such defense as to them they deemed best. They are here to attend to that in this Court this morning. I will ask Your Honor to confirm that assignment.

Mr. Titus. If the Court please, it has been thought best by my distinguished associate and myself and my young friend that something should be said, not in the way of apology, but as a reason why we are here in defense of this defendant. At the time we were assigned I was out of the city, and neither of my associates were consulted about the assignment. I at first declined absolutely to take part in the defense of the case, but subsequently it was made to appear to Judge Lewis and myself that it was a duty which we owed alike to our profession, to the public and to the Court that we accept this assignment, unpleasant though the task is for us, and we therefore appear to see that this defendant, if he is guilty, is convicted only by such evidence as the law of the land requires, and that in his trial the forms of law shall be observed in every particular and that no act or no piece of evidence shall be introduced here and accepted against him unless it is such as would be introduced and accepted upon the trial of the meanest criminal in the smallest case.

THE COURT. It certainly accords with the views of this Court that gentlemen like yourselves should have been appointed by the County Court to defend this prisoner. It gives to the public and the Court, and those engaged in the administration of the law absolute assurance that the prisoner will receive fair treatment during the progress of this trial, and that he will meet with such justice

[14] Dr. Allan McLane Hamilton, one of the experts in the trial of Guiteau (see ante p. 84) was present at the trial and says in his Recollection of an Alienist (see ante p. 3): "The prisoner was brought into court accompanied by one of his brothers. He was a tall young man with good features but bore the effects of his ill-usage for a red scar ran across his face. His was a prepossessing personality and there was none of the repulsive cunning or ugliness of Guiteau." Dr. Hamilton considered him a defective, "the reflex of the yellow journals and the fruit of months of insane brooding."

as the law demands in his behalf as he is assured by the fundamental law of the land.

The plea of "guilty" which has been entered by the prisoner, indicates as the Court looks upon it, that he himself anticipates no escape from the penalty which the law prescribes. Of course, that plea cannot be accepted, and the progress of the trial should be the same in my judgment as though he himself had entered a plea of "not guilty." I am sure you gentlemen will protect him to the same extent that you would if you were retained for a munificent compensation to do the duty which you are undertaking to do now.

Some question has been raised, and discussed in the public print at any rate, as to the jurisdiction of the County Court to appoint you gentlemen. It is my pleasure to not only confirm, but if it should be deemed necessary, appoint and designate you to the task which you have set out to perform.

The Clerk. By direction of the Court, the defendant is informed that if he intends to challenge an individual juror, he must do so when the juror appears and before he is sworn, and that the following are duly called to try the case.

The following jurors after being examined by Counsel on both sides as to their qualifications to serve were accepted and sworn: Frederick V. Lauer, Richard J. Garwood, Henry W. Wendt, Silas Carmer, James S. Stygal, Jr., William Loton, Walter E. Everett, Benjamin C. Ralph, Samuel P. Waldow, Andrew J. Smith, Joachim H. Mertens, Robert J. Adams.

Each juror stated on his examination that he had formed an opinion of the guilt or innocence of the accused but that such opinion would yield to evidence and would not prevent his giving a verdict upon the evidence introduced.

Mr. Haller. Gentlemen of the Jury: This man is before you charged with having committed the crime of murder in the first degree in the City of Buffalo on the sixth day of September of this year. It is alleged in the indictment that upon that day in this City he committed an assault upon William McKinley, and that with a revolver and fire-arm in his hands then had and held, he fired upon William McKinley, inflicting upon him a mortal wound; that the said William McKinley languished from the 6th day of September of this year until the 14th day of September, upon which last named day he died at the City of Buffalo from the mortal wound so inflicted.

I shall but briefly indicate to you the trend of the evidence as it will be presented to you. The witnesses produced by the People will show to your minds, I believe, beyond

any reasonable doubt, that for some days prior to the day on which he committed this crime, he had premeditated and deliberated upon it; that he had been informed that the President of the United States would upon the 6th day of September be at the Temple of Music in the Exposition Grounds, and that he would there receive the populace, would greet the people who came there to shake hands with him. He had been informed of that, and upon this day he went to the Exposition grounds armed, prepared to commit this assault; that whilst there he learned that the President had entered the Temple of Music; that he entered the Temple of Music with the other people who entered at the time to shake hands with the President; he got into line with the people who were passing before the President and awaited his opportunity and approached the President; that as he approached the President he had this weapon concealed in his hand; that as the President extended his hand to shake his hand, he fired the fatal shot; that he fired two shots; one shot so fired inflicting this wound that I have referred to; that he was immediately apprehended and disarmed, and has been in custody ever since; that the President was taken care of immediately by persons there with him, and was afforded all the care that could be afforded him; and upon the 14th day of September thereafter he died from this mortal wound so inflicted by this man upon that day.

These are in brief the main facts in this case. They will be presented to you by eye-witnesses, by people who were there and saw the commission of this crime, by those who apprehended and who disarmed him at the time. You will be afforded an opportunity of judging as to the position that the President occupied and the people approaching him at this time, and the position occupied by the prisoner. This opportunity will be afforded you by a diagram and photographs of the Temple of Music, the building in which this crime was committed.

This is, in brief, gentlemen, the case of the People, and I have no doubt that when the evidence is presented to you,

you will not find much difficulty in arriving at a verdict in accordance with that evidence.

THE WITNESSES FOR THE PEOPLE.

Samuel J. Fields, Chief Engineer for the Pan American Exposition, produced a ground plan of the interior of the Temple of Music on the Exposition grounds made by him on the afternoon of September 6. It showed the aisles, the arrangement of the chairs, the entrances and exits, the decorations of plants, trees and flags.

Harry A. Bliss, a photographer, produced photographs of the interior of the Temple of Music, taken by him on the morning of September 7.

Harvey R. Gaylord. Am a physician and surgeon. I performed the autopsy upon the body of the late President McKinley in conjunction with Dr. Matzinger on the morning following his death. Upon the wall of the thorax, just at the junction of the second and third rib, was the evidence of a wound in the skin. Underneath was found a surgical wound somewhat to the left of the median line. In the wall of this wound was a notch, which we were informed was what remained of the point where a bullet had entered the abdominal cavity. Directly beneath it there was a wound in the wall of the stomach. Beneath the stomach and behind it was a cavity filled with discolored fluid, and at the bottom of this cavity was a tract in which I could insert my fingers. On removing the intestines, we found that this tract where the finger entered passed downward and posteriorly into the fat in the neighborhood of the kidney; that the portion of the kidney adjacent to this opening and tract showed changes which indicated that it had been injured during life. We made careful search for a bullet; but at the time did not find any; and later, as the cause of death was established, the search for the bullet was discontinued. The wall of this cavity was formed by the fat posteriorly, the attachment of the large intestines and the pancreas; and the pancreas was seriously involved. The cause of death was a gunshot wound leading to changes in the important viscera. The condition of the other organs which were not included in this area of the wound were those which a man of the President's age should have had. They were not especially robust organs, but they were normal for a man of his condition and age.

Cross-examined. I am connected with the State Laboratory and the University of Buffalo. The wound I first described perforated the skin and had caused the destruction of a small amount of fat beneath it, but did not reach down to the muscles. We dismissed this as one of no great importance. The other was the wound that passed through the stomach. I do not think the ball had passed through any part of the kidney. A ball could have grazed it and caused injury, but there was no

loss of continuity which would enable me to say it had been perforated. I know of nothing in medical science that would have probably arrested the progress of the wound. I would not state specifically that the death of the President was due to injury in any organ made directly by the bullet. The changes caused by the bullet, which resulted from the passage of the bullet through that space back of the stomach, was what caused his death, and that was largely because of the fact that the pancreas was involved. It was caused by the absorption or breaking up of this material back of the peritoneal cavity.

An antiseptic is used to prevent the invasion of the tissues by bacteria—to kill them. It is used at the time of the interference or the operation to prevent it, and it is used afterwards to destroy organisms that were already there. Antiseptics are not used to prevent inflammation.

To Mr. Penney. Inflammation is a popular term which is applied to a large group of changes and can be produced in other ways than by that which follows infection. Antiseptics are applied to prevent that form—or not necessarily that form of inflammation, but those changes in the same tissue which are brought about by the entry of organisms into the tissue. There are other things besides inflammation which it is used to prevent also. The President died as the result of absorption of the breaking down material in this area back of the stomach. The cause of this was, in the first place, injury to the tissues and was probably further facilitated by the escape of the secretion of the pancreas into this cavity. The cause of the injury to the tissues I should attribute to the bullet. The office of the pancreas is in digestion, intestinal digestion. It secretes certain ferments which act upon the fluid which passes out of the stomach into the intestinal tract.

Dr. Herman Mynter. Am a physician and surgeon. I am connected with the Buffalo Medical College as a professor of operative surgery, also with the German Deaconesses Hospital, and the German Hospital as surgeon; formerly with the General Hospital and the Sisters' Hospital, too, as surgeon. Was called on the day of the shooting of the President to attend him. Found him on the table in the operating room. Found a bullet wound in the upper part and left part of the abdominal cavity. He was slightly under the influence of opium. I told the President that an operation was indicated at once to save his life, and he acquiesced. I made preparations immediately with the assistance of the other gentlemen present for operation of opening the abdominal cavity, called laperotomy. We agreed to wait for Dr. Mann, who was on his way, I being the only surgeon present at that time. When Dr. Mann arrived I told him that an operation was necessary at once, and that the President, if he could help it, should have the same chance for his life as if he were a laborer on the Exposition grounds. Dr. Mann asked the physicians whether they wanted him to operate. Dr. VanPeyma answered

that they wanted Dr. Mann and me. I acquiesced; told Dr. Mann I would take half the responsibility. The abdomen was opened in the line of the incision; air escaped, showing that there was a perforation of one of the hollow viscus or organs. We found a bullet hole in the anterior end of the stomach, which was sewed together with two rows of silk sutures. On account of the stoutness of the President it was difficult to get at the posterior wound in the stomach, which we judged to be present. Dr. Mann introduced his hand and tried to locate the forward course of the bullet. It showed itself to be impossible; the President's condition showed at that time shock, his pulse was getting higher, and it was time to close the operation. We washed out the abdominal cavity with sterilized salt solution, cleaned everything, put the omentum back. Previously we had examined for injuries of the intestines but found none. And at that time Dr. Park arrived. We all declared ourselves satisfied. We closed the wound with sutures and applied the bandages. The President's condition, after the operation, was fair, his pulse being about 124 to 130. He was removed immediately, before he was out of the influence of ether, to Mr. Milburn's house, where he died. A majority of us decided he ought to be removed, as he partly was under the influence of ether now and would not know it or feel it, and would not be injured, and there was no preparation in the hospital for patients to stay over night. Dr. Mann and I went with friends of ours to the house, Dr. Park and Dr. Wasdin accompanying the President. I helped to carry him up and put him in bed. That is the history of the operation. I continued as one of the attending surgeons on the President. For the first two days it was a time of great anxiety for us, as we feared inflammation of the bowels from the gunshot wound. Two days passed and the President, instead of getting worse, held his own and was improving. It was a period of great hope for us; we thought that the peritonitis, inflammation of the bowels, was not apt to occur; as two days had passed and no complications occurred, we had strong hopes that the President might recover. The next two days our hopes changed to exultation and joy. The President was evidently getting better; he was eating some food, his pulse, although it kept high, was of good volume; he had absolutely no symptoms of peritonitis, or sepsis or any other serious trouble, and as six days almost had passed, people —surgeons, who have often with abdominal operations to do, would say that in the majority of cases they would get well.

We met three times a day, Dr. Mann and I, Dr. Park and Dr. Wasdin and Dr. McBurney from New York, later Dr. Stockton was called, and Dr. Janeway and Dr. Johnson, who arrived after the President was dead.

His treatment, during that period of his illness, was the result of our joint consultation. The autopsy disclosed, first, that there there was no peritonitis present, no inflammation of the bowels; second, that there was no injury to his heart, which we

had thought there might be; third, that there was a gunshot wound of the anterior and posterior wall of the stomach, leading through a cavity and through the mesentery of the transverse colon, perforating the posterior wall, hitting the tip of the kidney and losing itself; that around the two wounds in the stomach where the sutures could be seen, and which were tight, was an area of gangrene, or total death of the wall of the stomach, about as large as a silder dollar; that the whole line of the track was in the same gangrenous condition.

The cause of death was what we call toxemia, a kind of blood poisoning from absorption of poisonous products from the gangrene, produced by the bullet wound.

The cause of death of President McKinley was this gunshot wound that occurred on the 6th day of September of this year.

When we performed the operation we could not have located the bullet without taking out all the intestines. The President would have died on the table if we had gone further. The object in locating the bullet and removing it would be to get rid of it so that it might not raise any disturbance afterwards. The X-rays were not used. It was not considered necessary. Even if we had known where the bullet was not one of us would have thought at the time of trying to remove it. Even if the X-rays had disclosed that the bullet was located in the muscles near the back or near the surface of the body, that could have been removed without very much physical disturbance, but still you might have to use cocaine and with a weak heart that might injure him. It would not have made the slightest difference either one way or another. The gangrene of the stomach would have occurred anyway. The President was not exactly what I would call a healthy person. He was a healthy person for his age, but with a rather low vitality.

It is not usual that when a person receives a wound inside, gangrene must set up. I attribute it partly to leakage of the pancreatic fluid, although to my idea the pancreas was not wounded by the bullet, but it might have got into a state of injury by simply the wave of the bullet striking it,—contrecoup, as we call it,—and in that way injury to the pancreas occurred. That is one idea. Another idea is that injury was followed with bacterial growth. That we cannot say yet because the bacteriological examination is not finished. Another thing is that the proximity of the large solar plexus, the large ganglia near the heart, near the stomach wound, might have certain deleterious influence upon the nervous system which already was weakened, and in that way favor gangrenous processes. I have bacteria and so have you in your intestines, and if that gets pierced or your stomach gets pierced, the bacteria may, alone, in that way, infect the tract. The intestines were not injured or pierced at all, simply the stomach. The pancreas perhaps itself may have become contused, although it was not strictly hurt by the bullet. In

the same way, for instance, as when I get a blow on this part of the head (the right side) my skull might be fractured on that (the left side) without that part (the right side) is hurt at all. So a violent blow on the stomach may injure the pancreas. What caused the infection? I don't know. The bacteriological examination perhaps may show you, but that is not finished.

I did not make the autopsy but was present. They tried to locate the bullet for four hours and could not find it, and at last they were told to desist. The family of the President would not have allowed them to go on any longer and would not permit them to injure the corpse any longer.

In the same way they would not permit anything to be removed for pathological examinations of the body.

It would simply have shown where the bullet was; it would not have shown this dead tissue or anything of that kind, nor the line of the bullet or indicate that there was gangrene there.

Dr. Matthew D. Mann. Am professor in the Medical Department of the University of Buffalo, and also connected with the German Deaconesses Home, German Hospital, the Almshouse Hospital, in some as attending and some as consulting gynecologist, i. e., one who has to do particularly with the diseases of women, and especially with abdominal operations connected with them. Saw the President on the table in the operating room of the Emergency Hospital on the Pan-American Grounds, a little after five o'clock. After I examined the patient and held a consultation with Dr. Mynter and some others of the surgeons, we decided an operation should be undertaken at once. Dr. Mynter, my associate, and Dr. Parmenter and Dr. Lee as assistants, we proceeded. We opened the abdomen with a knife, making an incision some three inches in length. The opening was made down to the stomach. I introduced my finger and on the front wall of the stomach found an opening. I enlarged the opening and pulled the stomach up so that I could get at this opening; then with a needle and thread I sewed up the hole according to the usual methods. The parts were washed off and returned. I then cut away some of the fatty tissue and got at the back wall of the stomach, and there we found another opening, a little larger than the one in front, the edges rather more frayed and bloody, and with great difficulty we got that up and closed that in the same way. The parts were then washed off with salt and water, and the parts returned, The surgeons present expressing themselves as being satisfied that everything had been done, I introduced my hand into the abdomen cavity to try and find the track of the bullet. This was entirely impossible. There were no evidences of blood or abdominal contents, intestinal contents, there on my hand as I withdrew it. I therefore thought there was no serious injury, no large vessels, blood vessels injured, and I desisted, especially as the manipulation with my hand in the abdomen was making the President very weak, had a very bad effect on his pulse, as it al-

ways does. To find the track of the bullet we should have had to have taken the entire intestines out of the abdomen, which would have increased the shock very much; probably would have killed him on the table; and it is doubtful whether we could have found the track of the bullet even then. The autopsy showed that we could not. After this we closed the abdominal wound with stitches, in the usual way, put on a dressing, bandages, and the President was then removed to the ambulance and taken to Mr. Milburn's. After that, a number of surgeons and physicians united in the treatment of the President, consulting. They were: Dr. Rixey, the President's family physician—a surgeon of the navy; he assumed the charge of the President and selected the staff who were to attend him; he chose myself and Dr. Mynter as the surgeons, and Dr. Wasdin and Dr. Park, and later, Dr. McBurney was called, also chosen by Dr. Rixey, and later Dr. Stockton, and two other physicians came later—too late.

We made a point that two of us should stay each night with the President, and the rest of us would meet three times a day. His treatment was the result of the joint consultation of all of us. Was present at the autopsy. We found that the abdominal cavity, intestines, were all in a perfectly healthy condition; no evidence of inflammation of the bowels. There was a point in the front wall of the stomach, which had been closed by the suture and around that was a spot as large as a silver dollar; where the tissue was entirely dead, the walls of the stomach were entirely dead. We found a similar condition on the back wall, around the other bullet hole. Below this there was a cavity which contained a lot of fluid and which showed the evidences of gangrene. In this cavity was a portion of the pancreas, as was also the fat which surrounds the kidney, and the upper end of the kidney was very near this cavity, whether it was in it or not I could not say. The cause of death of the late President was this bullet wound.

Cross-examined. The breaking down of the tissues and the condition of the body as we found it were indications not to be expected from the nature of the wound the President received; that was an unusual, unexpected condition; I have never seen anything exactly like it. The gangrenous condition of the wound is very difficult to explain; it might be due to one or several causes. It would be necessary for further investigation to be made before any adequate explanation can be made. That would be the duty of the pathologists, those that made the autopsy. I was merely a spectator of the autopsy. I have no positive opinion.

Mr. Lewis. Therefore the optimistic bulletins that were issued from time to time, by the physicians, were without any sufficient knowledge of those symptoms that were finally discovered? The bulletins which were issued were not optimistic, in that they gave no idea of what was to come; they expressed no opinion, they merely stated facts, but the opinions

that were held by the staff seemed to be fully warranted by the condition of the President. We had no reason to suspect the existence of any such state of affairs, within the abdomen. Whether they appeared in the bulletins or not, they certainly appeared in the press extensively, that the physicians were quite confident, in fact almost certain that the President would recover? Yes, that was so, in the press, but a good deal was attributed to the physicians by the press which was not always quite correct.

Mr. Lewis. You said that it was due to several causes,—can you give us any of them? Invasion of the parts by germs, the entrance of germs into the parts, might have been one cause; a very low state of vitality might have been a cause; the action of the pancreatic juice—the secretion from the pancreas, that might have been a cause, undoubtedly contributed. These germs that you speak of are present, if I understand, in all our bodies? Yes, sir. And make their work prominent when the body is in any way injured, that is, very likely to? That is true. That you expected, of course, in this case? If the operation is carefully and properly done, we can to a certain extent guard against the entrance of those germs, we cannot guard against it entirely. We guard against it by having everything absolutely clean which is used in the operation, the hands of the operator, instruments, the ligatures and material with which we sew, everything has to be rigidly clean and free from germs. Nature can take care of a certain number of germs, overcome their bad effect. We try not to introduce any more than we can help, so as to tax nature as little as possible. Are there any remedies known to the profession to be used to prevent the action of these germs? There are remedies which will kill the germs, but it is very difficult to apply them deep down in the tissues of the body, and impossible, once they get a lodgment in the tissues, impossible to dislodge them and kill them. There is nothing then that could be administered through the stomach to prevent it? Nothing at all. You spoke of the debilitated condition, I don't remember the word, of the President's body. Do you mean that there were indications that his body was in that condition before he was assaulted? The President probably was not in a very good physical condition, he was somewhat weakened by hard work, want of exercise and conditions of that kind. I think undoubtedly that had something to do with the result. You agree with the other physicians that the kidney was not actually mutilated or struck by the ball?

As well as could be determined the ball did not enter it. It is impossible to say positively, but it was injured in some way. Very possibly by concussion. Once the organ is injured then the pancreatic juice, the secretion of the gland will pass through the gland and can enter other parts. One portion of it being healthy, another part diseased, the healthy part would secrete while the diseased portion will allow the secretion to pass through it and attack other

parts. Food cannot be digested, if it does not secrete. The only duty of that organ is to aid digestion.

To Mr. Penney. Every known method of the latest surgical and medical science was applied in the treatment of the President. From my knowledge of the autopsy and the history of the case, there was nothing that would have saved the life of the President known to medical or surgical science.

Lewis L. Babcock.[15] Am a member of the Buffalo Bar. In

[15] BABCOCK, LOUIS LOCKE. Born Gowanda, N. Y., 1868. Admitted to N. Y. Bar 1890. Captain 65th Reg. U. S. V. in war with Spain, 1898. Brig. Gen. N. Y. State Guard, 1917-1919. Is now a leading member of the Buffalo bar and of the firm of Locke, Babcock, Spratt and Hollister. Writing to an army friend on September 12, when it was thought that the President would recover, General Babcock gave some interesting details of what he saw, which are not in his evidence at the trial. "Do not," he says, "let any reporter get hold of this letter as I promised the District Attorney not to talk for publication. The day was very warm and everyone was perspiring and using their handkerchiefs to wipe the sweat from their faces and hands and to compose their features before passing the President. When crack, crack, went a couple of shots almost together. I whirled around and saw the President standing perfectly still and deathly pale. In the field of my vision were my artillery-men on all sides of a young fellow with a revolver whom they pounced on like hawks on a chicken. * * * I never saw such an ugly crowd and had it been led it would have broken into the Temple and taken Czolgosz away from the few people there and lynched him. He was soon piled into a hack and by dint of fast driving and the efforts of some regulars with their rifles and a lot of Guards, hustled out of the grounds down into the city with the crowd in hot pursuit. * * * It appears he came into the Temple with a revolver in his right coat pocket bound up in a handkerchief. When about 15 feet from the President he drew out his gun with the handkerchief bound loosely around it. He had practiced, so he said, this move so that he had it down pat and so it would look exactly like a loose handkerchief. He of course was protected somewhat in this operation by the person in front of him but I imagine had his handkerchief been noticed no attention would have been paid to it as it was so common a sight that day. He expected to fire all five shots from his double-acting 32 cal. but thanks to the artillerymen he was pounced on. He never hurried or got out of his place. He betrayed no agitation whatever, but walked along directly in front of the President, brushed away the President's hand with his left hand and fired through his handkerchief with his right. Knowing that his life was forfeit as soon as he fired, he showed no agitation on his pretty face or nervousness of any kind whatever. * * * He at first planned to fire through his coat but hit upon the other scheme as more effective and surer to work. A coon claims he grabbed him, but the coon—Parker by name—in the

July was appointed a member of the Committee of Ceremonies and Grand Marshal. On September 6 an excursion was had to Niagara Falls in honor of the President, who accompanied it. I did not go, but remained to make arrangements for the reception to take place at the Temple of Music, on his return. With my assistants it was arranged so that the one door at the center main door should be opened to admit the crowd, and that the people should enter the Temple of Music, turn to the right and walk towards the stage between aisles of chairs with their backs towards the aisle and covered with blue bunting to a point some 35 or 40 feet from the pillars. In the right angle formed by these chairs I placed the decorations, palms, which obtained from the stage; also two large bay trees were placed in the angle, about 6 or 7 feet apart. I directed a frame-work to be built directly behind these bay trees which, when draped with the flag, prevented anyone seeing the President from the rear. I arranged with Major Robertson for a guard of 30 Exposition Police and with Captain Wisser for 10 artillery men.

The President arrived at the Terminal station at 3:30, and at that time the guards had reported to me and were ready for duty.

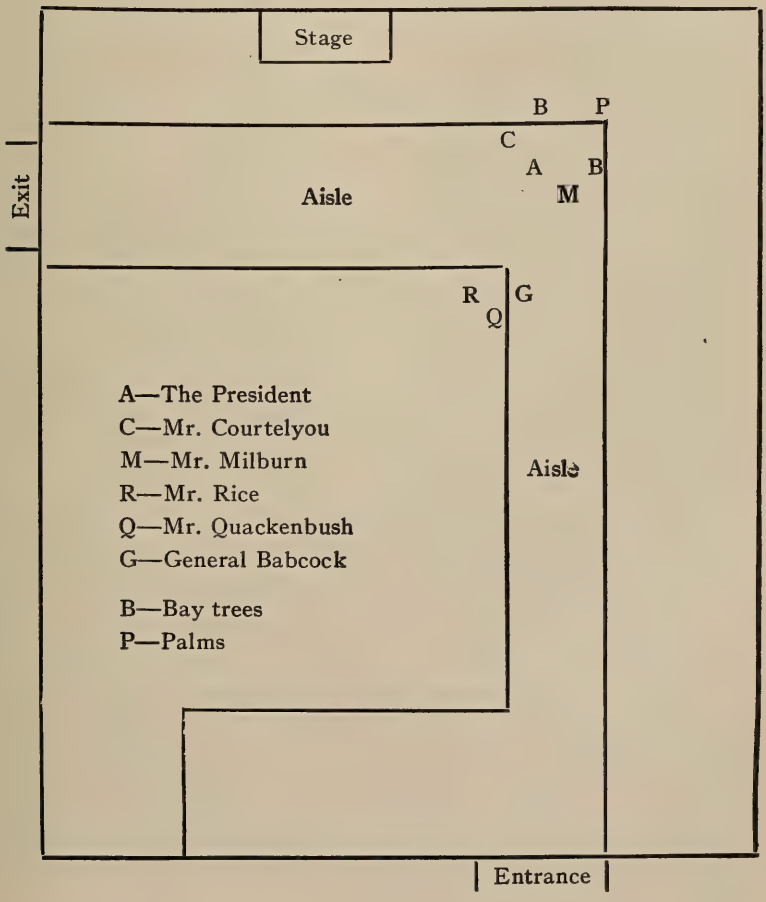
I posted two of the artillery men to the south of the south bay tree and adjacent to it, and two of the artillery men to the east of the east bay tree. I posted the other seven artillery men from a point about opposite where the President would stand along the center of the aisle towards the east, and directed them to close in to the line of people, see that no disorderly character went by the President and that the line kept moving. The Exposition guards, aside from those inside and at the entrance—about 12 or 15—were posted so that the people would pass between them.

The President reached the Temple of Music a couple of minutes before four, accompanied in the carriage by Mr. Milburn and Mr. Cortelyou. He took his place as I indicated, and close to him were two or three Secret Service men and several from police headquarters, all in plain clothes. The President nodded to me and said, "Let them come," and I at once directed a door to be opened. The crowd at once came in by twos and threes until they were forced into a single line by the guards. Very soon I was instructed to have them come faster and immediately ordered another door opened, came back and stood near the President on the other side of the aisle and

melee between the soldiers (who refused to give up their prisoner) and the secret-service men for the custody of the prisoner the coon, I saw, grabbed a Government detective, in civilian clothes, and was promptly ordered out of the Temple for his pains. Such is fame! (The coon has quit work and gone into the hero business.) The soldiers unquestionably saved the President's life. I am going to see they are rewarded if I can interest Col. Roosevelt or Cortelyou. They certainly deserve it."

watched the reception. Some one in the Presidential party—I think it was Mr. Cortelyou—said that the people were not coming in fast enough, and I again went back to the front door and directed the Exposition Guards to open another door and to let the people in by threes and fours, then to straighten them out in column of twos and a few feet further on in a column of files. Another complaint was made that the people were not coming in fast enough, and I reiterated my instructions to keep the crowd moving faster, but did not open any more doors. President McKinley at first stood between the two bay trees, but gradually worked up towards the east bay tree. Mr. Milburn was standing at his left, close to, on the same line with him and Mr. Cortelyou was at his right.

THE TEMPLE OF MUSIC



One of the Secret Service men stood directly behind and another directly in front of him, not more than three feet away, and the other detectives were stationed south of the President. I am quite positive that was their position sometime before the President was shot, but their precise position at the exact instant of the attack on him I am not able to state. There was no change in the position of the artillerymen up to the attack save that I took one artilleryman from where I had posted him on the south side of the aisle and moved him further east to assist in hurrying up the people. A few seconds before the shots were fired Mr. Rice spoke to me and told me in substance that Mr. Cortelyou was about to give the signal to close the reception. Mr. Rice was standing about opposite the President and southeasterly from him on the outside of the south row of chairs. He was not in the aisle. Mr. Quackenbush was standing near him and both were looking towards the people whom the President was shaking hands with. I told Mr. Rice that when Mr. Cortelyou said to cut off the reception to give me a signal and I would immediately shut the doors. I then turned from a position almost in front of the President and passing behind the artillerymen walked up the south side of the aisle towards the easterly entrance of the Temple of Music. I had taken probably five or six steps when I heard two reports of a revolver. The reports sounded somewhat muffled and not as a revolver would normally sound in an inclosure like that. I instantly turned around and looked first at the President, who as far as I could see, was standing perfectly still. In the field of my vision I could see the artillerymen, or a large proportion of them, struggling with a man who had a revolver in his hand. Quicker than I can describe they bore him to the floor by force of their numbers, and rushing back I saw some soldier—but who I cannot say—wrest the revolver from his grasp. The artillerymen attacked the man with such violence that I could not get anywhere near him myself. I am quite certain that at least 8 or 9 of these artillerymen pounced upon this man and bore him to the ground. I am quite sure that there was no one in the pile other than the soldiers and the President's assailant. After they got the revolver away from him they retained their grasp on him, but let him struggle to his feet, and then Foster grasped the assailant by the throat and struck him in the face. Just before the attack I observed a negro, whom I learned was employed in the Temple of Music, standing north of the aisle and outside of it, apparently watching the reception. I asked one of the guards who he was and what business he had there, and was informed that he was an employe in the building. I saw no other negro at any other time during the attack or after it. I at once rushed towards the President, who was immediately led away some 15 feet to a seat which was standing in one of the old aisles of the Temple of Music. A section or so of the chairs forming the west aisle

was pulled away and the bunting was torn down by several people; I assisted in this. The President sat down. I did not hear him say anything nor did the prisoner appear to utter a word. The prisoner was taken by the Secret Service men and the detectives away from the soldiers who were holding on to him and into Mr. Henshaw's office in the Temple of Music. I do not remember to have seen the prisoner prior to the assault, but I am positive that the man who was arrested was the man who did the shooting, for the reason that I saw the revolver taken away from him.

In a few minutes the President was taken in an ambulance to the Exposition Hospital. Corporal Berchey of the Artillery handed the revolver to Captain Wisser. I was continuously present in the Temple of Music or on the steps of it until the arrival of the District Attorney. Just after the shots were fired and during the struggle to secure the prisoner, his nose began to bleed quite profusely and there were various spots of blood on the floor about where the struggle occurred. Although I looked I could not find that the President shed any blood in the Temple of Music.

Edward R. Rice. Was chairman of the committee on ceremonies for the entertainment of the President. I stood directly opposite the President, just over the line of chairs. It was my duty to decide when the ceremonies should conclude. I stood at the point indicated to get a signal from Secretary Cortelyou as to when he thought the ceremonies should close. The line had been passing a trifle more than ten minutes. I took my watch out indicating to Secretary Cortelyou that the time we had agreed upon was about up and he took out his watch indicating that he understood. Almost immediately I noticed the President's hand go forward towards the next person in line; then a line of white pushed towards the President from the person that was about to shake his hand and one or two quick reports, so quick you could hardly distinguish one from the other. The thought in my mind was that some one had concealed a revolver in a newspaper. Immediately after the people about there all fell in a mass, I ran towards the east door where the people were coming in, calling out, "close the door and clear the aisle." Then I came back and noticed the President had been removed to the chair in the aisle leading towards the stage.

James L. Quackenbush. Am an attorney and counselor at law and was a member of this committee of which Mr., Rice was chairman; was standing to Mr. Rice's right and directly opposite the President, south of the line of chairs forming the aisle and resting my left foot on one of those chairs. I heard two shots fired very close together; looked towards the President and saw him straighten up. At once the artillerymen on the left of the President lunged forward towards prisoner and at the same instant Mr. Gallaher, who had been standing at the right of the President, a little to his rear, plunged forward and practically about the same time

these men caught prisoner. I saw for an instant just a glimpse of something white as Gallaher lunged towards him. He went to the floor and on top of him a number of the artillerymen. At the time the shot was fired, directly in front of the President and facing him were standing Foster and Ireland of the Secret Service, and immediately back of them and standing in a line along the line facing the President were artillerymen and their corporal. To the left of the President was standing Mr. Milburn and to his left two artillerymen, O'Brien and Neff; directly behind the President was Mr. Geary of the Buffalo headquarters detective force. Immediately to the President's right was his secretary, Mr. Cortelyou, and a little back of him or near him stood Mr. Gallaher and Mr. Solomon of the Buffalo Headquarters, and to their right were two other artillerymen, arranged just a few feet from each other. It seemed to me as though this entire mass went down in a heap on the prisoner.

He came up standing in the grasp of several of these men. He was then struck a blow by Mr. Foster which sent him to the floor again, and he bled somewhat from the face. He was then taken to the room of Mr. Henshaw.

In the meantime the President had been assisted by Mr. Geary and Mr. Milburn to a chair. Some gentlemen fanned him until an ambulance came and took him away.

After the prisoner had been taken away and statements had been taken from the artillerymen I accompanied Mr. Penney to headquarters where the prisoner made a statement in my presence with reference to his part in this crime. There were no threats or inducements made or offered to him; whatever he said appeared to be voluntary. This was between ten and eleven o'clock the night of the shooting. He was seated at the table in an inner office. There were present detective sergeant Geary, detective sergeant Solomon, inspector of police Donovan, superintendent of police Bull, assistant district attorney Haller, the stenographers, Mr. Storey and Haggerty and Mr. Ireland of the secret service, the district attorney himself and assistant superintendent of police Cusack. When we entered the room Mr. Haller handed to the District Attorney some memoranda which he had, and Mr. Penney proceeded to talk with prisoner about what he had done. I know nothing of what took place before this time. He replied to questions by the district attorney, stated that he had killed the President because he believed that it was his duty; that he understood the consequences and was willing to take his chances. He described in detail in a conversation over about two hours, his movements during the day of the shooting and for some time previous; he showed how he concealed his revolver and how he fired the shots. He stated that he had gone to Niagara Falls on the morning of the day of the shooting with the intention of shooting the President at the Falls, but that he was unable to carry out his purpose there, not being able to get near enough to the

President. That he took a street car from Niagara Falls to Buffalo, transferred to a car going to the Exposition Grounds and went to the Temple of Music with the purpose of shooting the President; that he waited outside in the line, that he placed his revolver in his right hand, covered it with his handkerchief, placed his hand covered with the handkerchief and holding the revolver in his right hand pocket, and stood that way while in the crowd outside of the entrance to the Temple, and as he entered the Temple, but that when he got to the point where the people were singled out in single file, he took his right hand from his pocket and held the hand covered with the handkerchief across his stomach until he reached the President, when he fired. He said had he not been stopped he would have fired other shots. That he had been thinking about killing the President for three or four days prior to the time of the shooting, that he fully determined that he would kill the President the day before the shooting.

He said he did not believe in government, that he thought the President was a tyrant and should be removed. That the day before the shooting when he saw the President in the grounds he thought that no one man should receive such services and all the others regard it as a privilege to stand by and render services; that he had for several years been studying the doctrines of Anarchy, that he believed in no government, no marriage relation, and that he attended church for some time but they talked nonsense and he discontinued that; that he did not believe in the marriage relation, that he believed in free love. He gave the names of several papers which he had read, Polish names which I cannot recall, four of them, and he mentioned one known as Free Society. He mentioned places that he had been to where he had heard these subjects discussed, places in Cleveland, Ohio. Before he came to Buffalo he had been in Chicago; had been influenced by the teachings of Emma Goldman and another woman living near Cleveland, whose name I do not recall. For the first half hour he was answering questions that were put to him in a brief manner. He seemed to be cool and not excited or disturbed in any way. He seemed to be suffering some pain and constantly applied a handkerchief to the side of his face where he was struck in the Temple of Music and complained that his eyes hurt him. I asked him a few questions myself and later when the District Attorney was engaged in consultation with Mr. Haller, Inspector Donovan and Detective-Sergeant Matt O'Laughlin, sat by him and he told them about his place of birth, his bringing up in Alpena, talked about the lumber camps in Alpena and about his movements from that time until the time he got to Cleveland and went to work in the wire-mill there, about his father's farm, and in a perfectly easy and conversational way. Without replying to questions at times he volunteered information.

I asked him to make a statement for publication as to his reasons. He said he would; he

started to write it but his hand shook and he said he would dictate it to the reporter and he did. I would prefer to refresh my recollection about that from a memorandum I have if I could be permitted. Looking at this statement it refreshes my recollection so that I am able to state what it was: "I killed President McKinley because I done my duty. I didn't believe one man should have so much service and another should have none." This statement he signed. This he made for publication. He made in addition to that a statement of two hours' duration. At times he volunteered in the true sense; he went beyond giving responsive answers. In response to questions he stated more than the question called for.

He said he was born in Detroit, Michigan; that when he was quite young his parents removed to Alpena, Michigan; that he went to school there, both to the public and the parochial schools. That afterward, when he was young, his mother died, that his father married again; that they removed to Cleveland; that he worked at one time as a blacksmith's helper; that subsequently he worked in the wire works near Cleveland; that his father lived on a farm near Warrensville, Ohio, some distance out of Cleveland; that he lived on his father's farm for some time but that he, as he put it, didn't like the style of his father and step-mother and left them; said that he didn't have any quarrel but that he didn't get along and that he left there. Asked what he had been doing for the last two or three years, he said he had saved up $400 from his earnings in the wire works, $100 of which he had given to his father; that he had supported himself out of the remaining $300 and had been working from time to time; that he had been to Chicago just before coming to Buffalo, came directly from Chicago to Buffalo, arriving here on Friday previous to the day of the shooting of the President. The President arrived in the city on Wednesday evening, was at the Exposition Grounds on Thursday, went to Niagara Falls Friday morning. He said that he was at the Grounds at the time of the arrival of the President, during the ceremonies on the day before the shooting, and with the intent of shooting the President but that he got no good opportunity.

He told about having attended a lecture in Cleveland at which Emma Goldman spoke. He gave the number of his family, saying that he had seven brothers; that they were living in and about Cleveland. He semed absolutely willing to answer any question which was asked him, without hesitation. I now recall that in addition to those who were present during the time of this conversation there was Dr. Fowler, a surgeon to the police; and that later in the evening Dr. Fronczak, a physician of this city, and I think also a lawyer—at least he was in the Law School—and who speaks the Polish language, came in and had a conversation with the defendant in the Polish tongue, which he repeated, in substance, to those present, in English. He said that he was entirely alone; that nobody assisted him in any way; that he

conceived the idea, planned the method and manner of carrying it out, upon his own responsibility; that he understood the consequences of such an act and was willing to take his chances, and that he wanted a fair trial.

Mr. Titus. You said that he made the statement that he was an anarchist. I don't think I made quite that statement. What he did say was that he didn't believe in any government, that he didn't believe in rulers; he thought that all rulers were tyrants and should be removed and that he had done his duty in removing the President. The District-Attorney, on several occasions, used the word "anarchy" and talked with him about anarchists of note, mentioning them by name; asking him if he knew them. Whether he himself used that precise term or not I would not state positively.

Did he say anything upon the subject as to whether it was his duty, belonging or owing allegiance or believing in that society, to slay the heads of governments; did he say anything upon that subject? He did not put it on any ground of allegiance, but on the ground of belief, and he claimed that was the result of his own individual theorizing and reflection; not that he used those terms but that is the substance of it.

Mr. Penney. Theorizing on what subject? On the subject of government and forms of government. In connection with that did he speak of the lectures and speakers that he had heard? Yes sir. The things that he had heard at these places, that he was meditating upon? Yes.

Albert L. Gallaher. Am a United States Secret Service agent; was with the President's party when he came to Buffalo at the time the shooting occurred. Was standing about eight or ten feet to the President's right. My duties were to keep the crowd moving along, after they would shake hands with the President, to see that no one would turn back or stop or blockade the procession. I heard two shots, fired in rapid succession. I looked, I saw smoke coming up from something white in a man's hand. At that instant I shot past, jumped on this fellow, crushed him down. It seemed like I struck the floor before I got to him. I bruised myself considerably on the knees going in. He was lying on his right side. I heard Fostera's voice say to me, "Get the gun, Al, get the gun." Laying out at prisoner's right hand was a handkerchief, blazing. I grabbed both. Some one at that instant took the gun from me, knocked it either from my hand or grabbed it quick. I held onto the handkerchief and burned my hand with it. (Witness produces from his pocket-book the handkerchief and hands it to the District Attorney.) When I got through with that tussle I looked around; I saw nothing of the man, but saw the President sitting a little to the left of where he was standing. Just then Mr. Cortelyou came to me and asked me for the gun. I told him I didn't have it but I located it in the possession of Corporal Lewis Bertschey. The next time I saw prisoner was in the little ante-room, his nose was bleeding. I made the re-

mark before they took him out, they had better wash the blood off his face.

George F. Foster. Am connected with the Treasury Department, Secret Service Division. Was in the Temple of Music at the time of the shooting. Mr. Milburn stood directly to the left of the President and I stood almost in front of Mr. Milburn. It was my place to get on the inside of the circle and keep them in line and to size up every person as they came along, which I generally did; and this man came along. They were as close together almost as my fingers passing here, and shuffling along and looking about to see when they were going to get up to shake hands with the President. This man came along and I looked him right in the face and he looked at me. He went right along. I paid no attention. I thought he was a mechanic out for the day to do the Exposition and wanted to shake hands with the President. Had noticed Mr. Cortelyou a few minutes before with his watch out, and that was a sign to me that the thing was going to be shut off very quickly. I turned slightly, kind of looked around to see Mr. Cortelyou, and as I looked around I saw the fellow put his hand that way. It went "bang, bang," almost as quick as that. There was an instant's pause and I grabbed him. Somebody on the other side of him pushed him, and as I twisted him another person came from the right of me and we fell on him together on the floor. I tried to strike him as I was going down, but I don't think I hit him very heavy. But he got in a twist then looking back this way at the President. As he fell he was twisting from the President, and he had his hand on the floor looking back like as if he was trying to see what effect it had had on the President. Just then I saw Gallaher sliding underneath. I said to Gallaher to get the gun, and he puts his hand down that way over the gun and handkerchief. I looked around and I saw we had him secured and I gave the order to let him up. When he got up I said, "We will search him." I just started to put my hand in his pocket, and just then he looked over his shoulder to see what he had done to the President, and it made me so mad I smashed him right in the jaw. I went with the President in the ambulance; was there when he was undressed; there was a bullet found in his clothing which I have here. (Witness produces bullet.) This was the bullet that was taken from the President's clothing after the shooting in the hospital. The President called my attention to it when he was in the wagon. He said, "I believe that is a bullet," and he reached around in his shirt; and I said "Yes, that is a bullet, Mr. President"; and it fell out when they were undressing him.

Cross-examined. In the line I could not say positive who was in front of prisoner or who was behind him. I noticed in the line several little girls but I can't tell exactly whether they were in front of him or not. I noticed a dark complexioned man with a black moustache in line, think he was ten feet in front of him. In fact I put my

hand on his shoulder and passed him past the President. I didn't like his general appearance. And I motioned to Gallaher to take care of him after I left him. I noticed a colored man in the line but it seems to me he was in front of this man; I never saw no colored man in the whole fracas.

Francis P. O'Brien. I belong to the Seacoast Artillery, 73d Company, U. S. Army. Was one of ten men detailed to do escort duty in the Temple of Music at the time of the shooting. I stood right to the left of Mr. Milburn and he was on the left of the President. Well, I was standing there; everybody was coming in and I was keeping them in line. I went out to Mr. Foster and he was putting them in line, single file. They were not coming straight. I went back to my place and there was such a crowd coming that we had to keep them moving. I kept looking down at the President; could hear him passing a remark to each and every one that passed by him. Could hear him distinctly, they were coming along there. It wasn't two seconds that I got in the line until I heard the shot. I was looking directly that way. I was looking at the President. Yes, sir. Right at him. I heard the report, and I was kind of dumbfounded. I couldn't understand it, and then I heard another bang. I could see the smoke. There was an opening there, and I jumped at that man there. Saw the smoke coming right from his hand. I jumped at him and knocked him over against somebody. When I knocked him he didn't go down until I made a grab for his arm and took the revolver, which I turned over to the corporal of my detail. This is the revolver I took from the hands of this prisoner.

Louis Neff. Was detailed with the 73d Company here to attend the President at the reception on the 6th of September last at the Temple of Music. I was stationed on the oppsite side of the President about four yards on his left. Two shots were fired, one right after another, and I looked right across into the line and here was the pistol. It was up this way (indicating); and I put my one hand this way and tried to get hold of it myself. I seen I couldn't do any good, and I thought I would break the hold. I saw one of our men had a good grasp right over what you call the chambers. I saw another artilleryman had it. I saw I couldn't get it, and I beared down on the man's hand here, grasping his hand close up this way, and I fell on my knee. I paid no more attention. I thought if we got the revolver they could take care of the prisoner. Will swear it was in his right hand. I didn't see the prisoner at all. I saw him after. I recognized the man afterwards, but I couldn't recognize him in the crowd. I only saw somebody's hand with a revolver in it and I tried to get it.

Louis Bertschey. Am a corporal in the 73d Coast Artillery, stationed at the Pan-American Exposition this summer. Was detailed to take command of men to go to the President's reception. Ten privates. We were ordered to report to Major Babcock and he told me how to sta-

tion the men. Major Babcock ordered me to put two men on the right of the President, two on the left, and six men directly in front of the President. I myself took a station directly in front of the President. He faced me. After the crowd commenced to come in we closed up to make the aisle narrower and keep the people in single file. In about five minutes, I should think, after the reception had begun, I heard two shots fired out in rapid succession. I turns around and see the prisoner with a revolver in his hand and his hand up in that direction (indicating). It was smoking—something white covered partly over the revolver. I rushed over to the President—I grabbed the man by the shoulders and pulled him backwards. Previous to this O'Brien and Neff had ahold of his arm. As I pulled him over backwards, O'Brien wrenched the pistol from his hand and we all fell to the floor. I put my right knee on his throat, my hand underneath his coat. And the crowd rushed in. I hollered to the crowd to stand back as he was my prisoner. There was some gentleman with a silk hat grabbed hold of me from the rear and carried me over and forced me over to the opposite side of the railing. He let go of me. I saw the President standing there—he was very pale—looking down at the struggling mass on the floor.

Saw O'Brien. He was backed off with one or two, possibly three, Secret Service men demanding the pistol from him. I goes over to where he was and told him not to give up the pistol. He said then he would give it up to me, and some of the Secret Service men demanded the pistol from me. I would not give it up, stating that I would turn it over to my commanding officer. That was Captain Wisser. I sent a messenger to notify him. He arrived in about fifteen minutes and I turned the revolver over to him. Before turning it over I put my initials on it. (Mr. Penney hands revolver to witness.) That is my initials. This is the same revolver Private O'Brien turned over to me.

Harry F. Henshaw. Am Superintendent of music of the Pan-American Exposition and have charge of the Temple of Music. At the time of the shooting was about five feet to the right of the President. Had in view the line of people as they came up towards the President. I could also see the President very well. I noticed this man, the prisoner here, in the line approaching the President; noticed he carried his right hand above the abdomen, close to the body, bent at the elbow. Noticed the hand was bandaged but did not pay any more attention to it. As he drew near the President he extended his left hand to the President. I saw the President extend his hand as if to shake hands with him, when like a flash I saw this man push the President's hand aside with his left hand—and kind of pushed forward. At the same instant two shots rang out in quick succession. I did not see any flash from the gun, but I saw the handkerchief or bandage smoking. I jumped over the rail and, as I was getting over, noticed two artillerymen or two

soldiers had grabbed this man and were bearing him down. At the same instant there was a dozen or more who crowded around and struggled to get at the man also. When I got to the bunch I could see nothing of the prisoner. Saw Mr. Milburn and some other gentleman escorting the President to a seat. I followed and I saw the President seated. I saw some guards carrying prisoner to my office.

Cross-examined. I saw prisoner appraoching with his hand up at his breast or abdomen. I thought the hand was simply sore and bandaged. Did not see the pistol; his hand did not excite my suspicion. I saw people with handkerchiefs in their hands; capes over their arms.

John Branch. I had charge of the toilet rooms in the Temple of Music. On this occasion when the shooting occurred, I was about eight feet left of the President, outside of the aisle. This man he got near me and I noticed a handkerchief in his hand. I seen him when he put his hand like this in his pocket (indicating) and it came out and his hand was in like that. He had his hand like that on his waist; his other was over his abdomen. When he got near the President it seemed as though he meant to shake hands with the President, and somehow—how he done it I don't know exactly—but anyhow he looked as if he meant to shake hands with the President; but I saw a report and the fire, and then I saw the second report and the fire, and I saw the handkerchief on fire; and then after that I saw the man when they began to get this man. I heard someone say, "Oh, they have shot the President." An artilleryman got him first, and at that time the man was almost about going down in the crowd, and one of the artillerymen grabbed him by the leg. At that time the man was on the ground. Then I turned to see the President. That is all I saw of the shooting.

Mr. Titus. Did you hear the President make any remark or say anything? When the President jumped after the second fire, from one of those big tubs the trees were in, and staggered over to the second one and then stood up, I heard him say, "Be easy with him, boys." That is all I heard him say.

Captain James F. Vallely. Am Sergeant of detectives, New York City, and have charge of the detective bureau at the Pan-American Exposition. I went with prisoner from the Pan-American Exposition to Police Hearquarters. I took him up to the cell at Police Headquarters, Buffalo.

I sat alongside of him in the cell on the cot, where the prisoners sleep. I said to him, "Do you smoke?" He said "Yes, sir." I handed him a cigar and lit it for him and lit one myself. I asked him for his name. He said "My name is Fred Nieman." He speled it "N-i-e-m-a-n". I then asked him how old he was. He said "28." I said "Where were you born?" He said "Detroit, Michigan." I said, "Where were your parents born?" He said, "I am a Polish German." I said, ""What do you do for a living?" He said, "I am a blacksmith." I said, "How long have you been in Buffalo?" He said,

"Since last Saturday." I said, "Where do you live?" He said, "1025 Broadway." I said, "What is the number of your room?" He said, "The room I think is No. 8." I said, "Why did you shoot the President?" He said, "I only done my duty." I said, "Why?" and he and I were sitting together on the bench where the prisoners lay, and he turned his head and looked at me and he hesitated. I said, "Are you an anarchist?" He said, "Yes, sir." That is all the conversation I had with him. There were present in the cell with us detective Solomon and the assistant commandant at the Exposition, Major Robertson.

William S. Bull. Am Superintendent of the Buffalo Police Department; was present on the night of September 6th when prisoner was at headquarters. Heard him make certain statements in reference to the shooting of the President. No threats were made to him or offers of immunity of any kind. No inducement held out to him. He said he knew Mr. McKinley, the President, that when he shot him he knew who he was shooting, that he shot him because he believed it was his duty to shoot him; that he had been to the Pan-American Grounds on several occasions prior to the President's visit to Buffalo; that he was on the Exposition grounds the day the President delivered his speech, and stood near the speaker's stand; that he went there with the determination to kill the President. He did not intend to kill him the day that he delivered his oration. He knew the President was to visit Buffalo and be at the Exposition. He knew that the President was going to the Falls and that he went to the Falls the same day the President was there. He did not intend to kill the President at the Falls. He knew the President was to hold a reception in the Temple of Music, and he intended to be present at the reception, and he was there; that he took his place in line with the other people who were attending the reception, for the purpose of killing the President. He carried his revolver in his right hand pocket and over it was his pocket handkerchief, and in describing it he illustrated it. The gun was in the pocket, the pocket handkerchief over it, and he did not remove the gun from his pocket until he was within the Temple of Music; he then took the gun and handkerchief together from his pocket, the gun being concealed, and as he went into the door arranged his handkerchief so that the gun could not be seen, carried his hand in this position with the fore finger of his hand upon the trigger. He passed along with the other people until he reached the President and the President was about to extend his hand to him, when he fired twice. Asked why he didn't shoot more, he said because he didn't have the opportunity, they fell upon him so suddenly, so quickly, and bore him to the ground that he had no opportunity to fire again. This statement he repeated upon several different occasions, and practically the same as the statement he made the first time that I talked with him.

He said that he had had it in

contemplation for some time. That he had planned the shooting, knew what he was going to do, had firmly made up his mind to kill the President, and went to the Exposition grounds for that purpose; that he did it because he thought it was right, it was his duty. He was asked if he was an Anarchist, he said that he was, that he believed he was doing right in killing the President. He said he had taken up the subject of Anarchy about seven years ago; that he was 28 years old, and when he was 21 he began to take up the subject of Anarchy. The papers that he had read had been principally Anarchistic papers, Socialist papers, and books relating to the subject of Anarchy. He had also attended meetings in different places, heard various people talk upon the subject of Anarchy, and he believed what he had heard and what he had been told, and believed that he was right. Most of the meetings he attended were in Cleveland, at 170 Superior street, but sometimes he used the word "Ontario street," and sometimes "Superior," but I think the number was 170 Superior street.

He had heard Emma Goldman talk, he had heard—well there were some names—I think a man by the name, something like Zolosman, a Polish man, a man who edited a paper in Cleveland, and a number of other speakers. He also knew a man in Chicago by the name of Izaak, who published a paper called "The Free Society." He had talked with this man upon the subject and had read his paper. He told me that he made a special trip to Cleveland at one time to buy a paper that was published there, as he wished to read it.

He did not believe in our form of Government, he believed only in the government as taught by the Anarchists. He had no belief in church. He had been a Roman Catholic, but had had nothing to do with the church in some time because he did not believe their teaching. He did not believe in marriage, he was a free lover. He told me of his father and mother; his father had been married a second time; that they lived near Cleveland at a place called Warrensville. His father had a small piece of ground that he used to farm. He had several brothers and sisters, that he had worked in the wire works near Cleveland; had also worked as a laborer and as blacksmith helper at different times; he said he went to the Exposition Grounds for the express purpose of killing McKinley the President. That he knew him, that he had seen him before, and that when he shot he knew he shot the President, he intended to kill him.

Cross-examined. When he was searched there was some scraps of paper and a memorandum book and $1.51 was handed to me that he said belonged to him. Of the $1.51 there was a shirt and some handkerchiefs and I think a collar bought out of it. One paper had a memorandum on it, an address, and there was a memorandum book and I think also a letter from the secretary of some society that he belonged to, I think the Golden Eagle, a sort of letter of identification. They were turned over to the District Attorney.

His head was erect and he

looked me in the eye and his language was intelligible. He spoke with a very slight accent and sometimes without any accent at all, and used comparatively good language. He did not volunteer any answers, he answered the questions that were put to him, and sometimes after he answered a question he would correct it.

To Mr. Penney. On Saturday morning a man named Walter Nowak came to Police Headquarters, met the Assistant Superintendent, Mr. Cusack, and said he would like to see this man, he thought he knew him. Nowak was brought into the private office of the Superintendent of Police and immediately recognized Czolgosz, and said he knew him in Cleveland. He said he was employed in a printing office in Cleveland, that Czolgosz was there and they got quite friendly, and that he knew his family. He said to him "You know me well, Czolgosz, I have always been a friend of yours. Why did you do this? Why did you commit this crime? Why have you committed an act that is going to bring disgrace upon the Polish race? Why have you committed this c r i m e that brings disgrace on your father and mother and entire family?" The conversation was in that strain for some time, to which prisoner made no response but simply smiled. Nowak asked him if he hadn't always been his friend. He said "I don't know whether you have been a particular friend of mine or not." Nowak said then, "Haven't I taken you to the theatre frequently?" "Yes, you have taken me to the theatre on several occasions; I don't know as that is any particular act of friendship." He said, "You and I belonged to the same society, attended the meetings together, but it became so radical, the talk was so radical I gave it up, I couldn't stand for it, I wouldn't listen to it."

Nowak also says, "I am a Republican, I am not a Socialist or Anarchist, I am a Republican." The prisoner says, "Oh, yes, you are a Republican for this (indicating with his fingers)." Mr. Penney asked him "what do you mean by that?" He said "I mean by that that Nowak is a Republican for what there is in it, the money he can get out of it."

He was asked if he wished to see a lawyer, and if he had any friends he would like to see, if he wished to see his father or his mother. He said he didn't wish to see a lawyer, didn't need a lawyer, that he had no friends and did not care to see his father or mother.

Mr. Penney. The People rest.

Mr. Lewis asked Czolgosz if he would go on the witness stand. The Prisoner shook his head.

Mr. Lewis. If your Honor please, the defendant has no witnesses that he will call, so that the testimony is closed at the close of the testimony of the People. We are somewhat

embarrassed, disappointed, in the People's testimony closing at this point. My associate and myself have not had very much consultation as to the course to be pursued, but from the slight conversation that we have had we are inclined to ask your Honor to permit both of us to make some remarks to the jury in summing up this case. They will be on my part very brief, and I presume so on the part of my associate.[16]

[16] The question of the prisoner's sanity was not raised by the defense for the following reasons:

Within a few hours after the crime was committed the District Attorney placed the prisoner under the observation of three experts in mental disease, Dr. Joseph Fowler, Police Surgeon; Dr. Floyd S. Crego, Professor of Insanity and Brain Diseases in the University of Buffalo, and Dr. James W. Putnam, Professor of Nervous Diseases in the University of Buffalo. Later (see ante p. 168) on the application of the counsel for the defense and with the free consent of the District Attorney, two eminent experts who had been brought to the city by the defense and whose fees were paid by the prosecution, were permitted to have free access to the prisoner for the purpose of passing on his mental condition. These were Dr. Carlos F. MacDonald, Professor of Mental Diseases and Medical Jurisprudence in the University and Bellevue Hospital Medical College and ex-President of the New York State Commission in Lunacy, and Dr. Arthur W. Hurd, Superintendent of the Buffalo State Hospital for the Insane.

The experts on both sides had free access to him for several weeks, both those for the People and the defense, conferred freely together and the proceedings had the effect of a commission of five, three for the prosecution and two for the defense, to determine the prisoner's mental condition. They unanimously reported him sane.

These reports, which were not put in evidence at the trial, are as follows:

Report of Drs. Joseph Fowler, Floyd S. Crego and James W. Putnam, experts for the People.

The early opportunity afforded us to examine Czolgosz, such examinations beginning but a few hours after the commission of the crime, while he was still uninformed of the fate of his victim or had time to meditate upon the enormity of his act, aided us materially in our work.

The prisoner answered questions unhesitatingly during the first three examinations. After this he became more cautious and less communicative when interrogated as to the crime. From September 10th he never volunteered any information to us and answered only in monosyllables except to his guards, to whom he talked freely. His general appearance was that of a person in good health,

Report of Dr. Carlos F. MacDonald[17] *and Dr. Arthur W. Hurd, experts for the prisoner.* "On September 19, 1901, I, Dr. C. F. MacDonald, received a telegram resquesting me to meet Mr. Adelbert Moot, President of the Erie County Bar Association, in Buffalo,

complexion fair, pulse and temperature normal, tongue clean, skin moist and in excellent condition. Pupils normal and react to light; reflexes normal; he never had serious illness, does not drink to excess, although drinks beer about every day; uses tobacco moderately, eats well, bowels regular. Shape of the head normal as shown by the diagram obtained by General Bull, Superintendent of Police, with a hatter's impress.

The face is symmetrical; one eyebrow was elevated as it had been cut some years ago by a wire while he was working in a factory. There was also a small scar in the left cheek due to a slight injury while at work.

At our first interview, held September 7th, he made the following statements during a lengthy examination by all of the three examiners:

"I don't believe in the Republican form of government and I don't believe we should have any rulers. It is right to kill them. I had that idea when I shot the President and that is why I was there. I planned killing the President three or four days ago after I came from Buffalo. Something I read in the Free Society suggested the idea. I thought it would be a good thing for the country to kill the President. When I got to the grounds I waited for the President to go into the Temple. I did not see him go in, but someone told me he had gone in. My gun was in my right pocket with a handkerchief over it. I put my gun in my pocket after I got in the door; took out my gun and wrapped the handkerchief over my hand. I carried it that way in the row until I got to the President; no one saw me do it. I did not shake hands with him. When I shot him I fully intended to kill him. I shot twice. I don't know if I would have shot again. I did not want to shoot him at the Falls; it was my plan from the beginning to shoot him at the Temple. I read in the paper that he would have a public reception. I know other men who believe what I do, that it would be a good thing to kill the President and to have no rulers. I have heard that at the meetings in public halls. I heard quite a lot of people talk like that. Emma Goldman was the last one I heard. She said she did not believe in government nor in rulers. She said a good deal more. I don't remember all she said. My family does not believe as I do. I paid $4.50 for my gun. After I shot twice they knocked me down and trampled on me. Somebody hit me in the face. I said to the officer that brought me down, "I done my duty." I don't believe in voting; it is against my principles. I am an anarchist. I don't believe in marriage. I believe in free love. I fully understood what I was doing when I shot the President. I realized that I was sacrificing my life. I am willing to take the consequences. I have always been a good worker. I worked in a

New York, on the following morning. On my arrival in Buffalo the next day Mr. Moot informed me that he had sent for me for the purpose of requesting me to inquire into the mental condition of Leon F. Czolgosz, confined in the Buffalo jail under indictment for the murder of President McKinley, and whose trial was to begin on the following Monday. Mr. Moot further stated in substance

wire mill and could always do as much work as the next man. I saved three or four hundred dollars in five or six years. I know what will happen to me—if the President dies I will be hung. I want to say to be published—'I killed President McKinley because I done my duty.' I don't believe in one man having so much service and another should have none."

On the second day's examination we covered about the same ground in order to test his memory and compare his statements. We found his memory perfect, and his statements almost identical. We gained some further information that for many months he had been an ardent student of the false doctrine of Anarchy; that he had attended many circles where these subjects were discussed. He related how a friend of his had broken away from the circle because he had changed his views and did not agree with him and the others in their radical ideas of government. He had heard Emma Goldman lecture and had also heard lectures on free love by an exponent of that doctrine. He had left the church five years ago because he said "he didn't like their style." He had attended a meeting of the Anarchists about six weeks ago, and also in July. He met a man in Chicago about ten days ago who was an Anarchist and had talked with him. The Friday before the commission of this crime he had spent in Cleveland, leaving Buffalo where he had been for two or three weeks and going to Cleveland. Said he had no particular business in Cleveland. "Just went there to look around and buy a paper."

The circle he belonged to had no name. They called themselves Anarchists. At every meeting they elected a chairman and usually it was one man. "He was a sort of spokesman for the crowd. This friend of mine who left the circle, I don't think much of. I don't like a man who changes around like he did. I like a man to have a fixed purpose and one who sticks to his belief. At this circle we discussed Presidents and that they were no good, but didn't say that they must be killed; just said that they were no good." During this examination the prisoner was very indignant because his clothing was soiled at the time of his arrest and he had not had an opportunity to care for his clothing and person as he wished. He refused to demonstrate again how he covered his weapon with a handkerchief because his was soiled and bloody. When given a clean one he showed at once the method of concealing the weapon and how he held it. His desire to keep himself tidy, demonstrated that he was not careless in dress and appearance as are most insane persons. He requested clean clothing, and as he had a small amount of money, a shirt and two handkerchiefs were purchased for him

that three local experts had already examined the prisoner for the District Attorney, but in view of the enormity of the offense and the fact that there obviously could be no legitimate defense other than insanity, it was deemed important, in the interests of justice, that his mental condition should be investigated by other experts acting in behalf of the defense, or at least independently of the prosecution to the end that the prisoner should be accorded every

with it. When they were brought in, the change was shown him. He instantly turned to the officers and said, "How is that? Don't I get more change?" The cost of the articles was told him and he said, "Oh, that's all right then." Said he would have slept well last night but for the noise of the people walking about. He had heard several drunken people brought to the station at night. Said he felt no remorse for the crime which he had committed. Said he supposed he would be punished but every man had a chance on a trial; that perhaps he wouldn't be punished so badly after all; his pulse on this occasion was 72; temperature normal; not nervous or excited.

On September 9th we observed a marked change in his readiness to answer questions. Many of the questions asked he refused to answer. He denied that he had killed the President or that he meant to kill him. Seemed more on his guard and refused to admit that he shot the President. He persisted in this course until nearly the close of the interview and until we told him that it was too late for him to deny statements that he had made to us. He then said "I am glad I did it."

At all subsequent interviews he declined to discuss the crime in any of its details with us but would talk about his general condition, his meals, his sleep and how much he walked in the corridor of the jail or upon any other subject not relating to the crime. From the daily reports filed with us we note that he talked freely; that his appetite was good; that he enjoyed his walks which he took in the corridor of the jail. He told his guards he would not talk with his lawyers because he did not believe in them and did not want them.

In conclusion as a result of the examinations of Czolgosz and of the reports of his watchers in the jail, we conclude that he was sane at the time he planned the murder and when he shot the President. We come to the conclusion from the history of his life as it came from him. He had been sober, industrious and law-abiding; till he was twenty-one years of age he was as others in his class, a believer in the Government of this country and of the religion of his fathers. After he cast his first vote he made the acquaintance of Anarchistic leaders who invited him to their meetings. He was a good listener and in a short time he adopted their theories. He was consistent in his adherence to Anarchy. He did not believe in Government, therefore he refused to vote. He did not believe in marriage because he did not believe in law. He killed the President because he was a ruler and Czolgosz believed as he was taught that

legal right, there being no desire to convict him if he were not mentally responsible, and that I had been selected for this responsible duty. With a deep sense of the responsibility involved, I consented to act, provided it should be distinctly understood that I was not there as a partisan expert in behalf of either side, but simply in a professional capacity to aid in determining the real mental state of the prisoner, and provided further that my selection would be acceptable to the eminent counsel whom the Bar Association had selected for the defense, should they decide to accept that duty, a matter which was then undecided. On the following morning—Saturday—Mr. Moot informed me that the gentlemen referred to had consented to act and invited me to meet them in conference, which I did, and which resulted in their requesting me

all rulers were tyrants; that to kill a ruler would benefit the people. He refused a lawyer because he did not believe in law, lawyers or courts.

We come to the conclusion that in the holding of these views Czolgosz was sane, because these opinions were formed gradually under the influence of Anarchistic leaders and propagandists. In Czolgosz they found a willing and intelligent tool; one who had the courage of his convictions regardless of personal consequences. We believe that his statement, "I killed the President because I done my duty," was not the expression of an insane delusion for several reasons. The most careful questioning failed to discover any hallucinations of sight or hearing. He had received no special command; he did not believe he had been specially chosen to do the deed. He always spoke of his motive for the crime as his duty; he always referred to the Anarchists' belief that the killing of rulers was a duty. He never claimed the idea of killing the President was original with him, but the method of accomplishing his purpose was his and that he did it alone. He is not a case of paronoia, because he has not systematized delusions reverting to self and because he is in exceptionally good condition and has an unbroken record of good health. His capacity for labor has always been good and equal to that of his fellows. These facts all tend to prove that the man has an unimpaired mind. He has false beliefs, the result of false teaching and not the result of disease. He is not to be classed as a degenerate because we do not find the stigmata of degeneration; his skull is symmetrical; his ears do not protrude, nor are they of abnormal size, and his palate not highly arched. Physically he has not a history of cruelty or of perverted tastes and habits. He is the product of Anarchy, sane and responsible.

[17] MacDonald, Carlos Frederick. Born Niles, O., 1845; Grad. Bellevue Med. Coll. (M. D.), 1869; M. A. (Hon.) Union Coll., 1894; Made a specialty of Nervous diseases and was consulting physician to many hospitals; Supt. Binghampton Asylum for Insane, 1879; State Asylum for Insane, 1881-1914; a frequent contributor to medical journals and proprietor of Dr. MacDonald's Sanitarium, Central Valley, N. Y.

to proceed at once to examine into the prisoner's mental condition and to report my conclusion to them as soon as I had reached one. They also assented readily to my proposal to invite Dr. Arthur W. Hurd to become associated with me professionally in the case, Dr. Hurd being Superintendent of the Buffalo State Hospital for the Insane and a competent alienist of large experience in mental diseases. It was also agreed that we should be allowed to confer freely with the District Attorney and with the experts for the people, after completing our personal examination of the prisoner. Being unable to establish communication with Dr. Hurd before evening of that day, and in view of the short time intervening before the trial, I decided to make a preliminary examination of Czolgosz alone, and did so that afternoon, in the District Attorney's office, first disclosing to him my identity and the object of my interview and informing him of his legal right to decline to answer any question I might ask him.

I examined him again on the following day—in the jail jointly with Dr. Hurd, and in the presence of one of his guards who was questioned at length, respecting his observations of him in the jail, as to his habits of eating, sleeping, talking, reading, etc. We subsequently interviewed the District Attorney and the Superintendent of Police, General Bull, who gave us all the facts and information in their possession respecting the case. The statement which Czolgosz made to the District Attorney shortly after his arrest throws much light on his mental condition on the day of the crime, but that official deemed it his duty to refuse to allow me to publish it. We also conferred at length with the people's experts—Drs. Fowler, Crego and Putnam—who stated to us separately and in detail their observations and examinations of him. We also observed him carefully in the court room throughout the trial.

After our examination of Czolgosz, we reached the conclusion, independently of each other, that he was sane and we so informed his counsel before the trial began.

As his family relatives resided in a distant state and were not accessible for interrogation, we were unable to obtain a history of his heredity beyond what he himself gave us.

Czolgosz, as he appeared at the time of my examinations of him at Buffalo, may be described as a well nourished, rather good looking, mild mannered young man with a pleasant facial expression; features, regular; face, smooth shaven and symmetrical; mouth and ears well formed and symmetrical; teeth, none missing, but in poor condition from neglect; tongue, clean; palate, fauces and uvula, normal in appearance; eyes, blue and normal in expression; pupils, equal in size and normally responsive to light and accommodation; hair, light brown and slightly curly; stature, medium—five feet seven and a half inches—and weight—estimated—about 140 pounds. The extremities were in all respects normal; was a slight deviation of the nose due to a blow which he received at the time of the assassination, and a superficial perpendicular cicatrix on the left face which he said was the result of a slight injury he received when

working in a barbed wire factory. There were no tremors or twitchings of the facial muscles, tongue or hands. The pulse and temperature and skin were normal, as also were the special senses, knee reflexes, coordinating power and the sensory and motor functions. Finally, a careful inspection of the entire visible body failed to reveal the presence of any of the so-called stigmata of degeneration. The almost perfectly symmetrical development—especially of the head and face—is a noteworthy feature in Czolgosz' case, although had deviations been found the fact would have had little weight as tending to show mental disease or degeneracy, as marked asymmetries, both cranial and facial, are frequently observed in persons who are quite sane and above the average in mental capacity.

In answer to questions he stated, in substance, that he was born in Detroit, Michigan, of Polish parents; that he was twenty-eight years of age, unmarried and a laborer by occupation; that he was a Romanist, originally, but had abandoned that faith several years ago because he no longer believed in it; that he attended the common schools as a boy and had learned to read and write; that he had used beer and tobacco, but not to excess; that he had done various kinds of unskilled labor such as farming, factorying, etc.; that his mother was dead and his father, one brother and a married sister were living; that so far as he knew there was no insanity in his family, and that he had not suffered any serious illness or injury during his life time; that he had never been subject to fits, spasms or vertigo; that he usually ate and slept well, and that his bowels were always regular.

Careful inquiry failed to elicit any evidence of delusion, hallucination or illusion. When questioned as to the existence of enemies, persecutions or conspiracies against him, he replied in the negative. He evinced no appearance of morbid mental depression, morbid mental exaltation, or of mental weakness or loss of mind; nor did he display any indication of morbid suspicion, vanity or conceit, or claim that he was "inspired" or had "a mission to perform," or that he was subject to any uncontrollable impulse. In fact, as regards the existence of evidences of mental disease or defect, the result of the examinations was entirely negative. On the contrary, everything in his history as shown by his conduct and declarations, points to the existence in him of the social disease, Anarchy, of which he was the victim."

Dr. MacDonald, after watching him from the day of his sentence to that of his execution, and having taken part in the autopsy, made this second report on the question:

"My last examination of Czolgosz was made jointly with Dr. Gerin, physician of Auburn Prison, the evening before his execution. This examination revealed nothing either in his mental or physical condition which tended to alter the opinion I gave to his counsel at the time of his trial, namely, that he was sane—an opinion which was concurred in by all of the official experts on either side, namely, Drs. Fowler, Crego and Putnam, for the people,

and Dr. Hurd and myself for the defense, also by Dr. Gerin, the only other physician who examined him. Furthermore, the prisoner's manner, appearance and declarations in the execution room, together with the post-mortem findings, corroborated most conclusively the original opinion as to sanity—while his dying declarations that he killed the President because he regarded him as an enemy of the good people—the good working people, and that he was not sorry for his crime—all tend to stamp him as an Anarchist. In fact, his bearing and conduct from the time of the commission of the crime to his execution were entirely consistent with the teachings and creed of Anarchy. Moreover, neither the three careful personal examinations which I made of him—one alone, one with Dr. Hurd and one with Dr. Gerin—the measurements of his body by the Bertillon system nor the post-mortem findings, disclosed the slightest evidence of mental disease, defect or degeneracy. This opinion is confirmed by the people's experts who repeatedly examined him and observed him from time to time, from the day of the assassination to the close of the trial, and by Dr. Gerin, the physician of Auburn Prison, who observed him carefully during the four weeks that he was in that institution awaiting execution. Dr. Gerin has had exceptional opportunity for the study of criminals, both sane and insane, in his capacity as Prison Physician and, previously, as Assistant Physician at the State Hospital for the Criminal Insane.

His refusal to talk with his counsel was perfectly consistent with the views he expressed to the District Attorney, after his arrest, that he did not believe in the law and wanted no counsel. It was entirely consistent with his expressed disbelief in government and in law, and his declaration that he shot the President with a clear knowledge of the nature and consequences of the act; and while he pleaded guilty in court and also proclaimed when he went to his death his reason for committing the crime, and declared that he was not sorry therefor, in a manner which clearly implied that he regarded the act as a justifiable one, he did not claim that it was not a crime on his part as paranoiacs usually do, nor did he in any way indicate that he regarded himself a victim of conspiracy or persecution. On the contrary, he declared—to the people's experts—that he fully understood what he did when he shot the President and was willing to take the consequences, that "I know what will happen to me; if the President dies I will be hung." It may be said that Czolgosz' belief which he expressed as he went to his death that the President was an enemy of the "good working people" was a delusion, and such it undoubtedly was in the broadest sense of that term: that is, it was a false belief, but it was in no sense an insane delusion or false belief due to disease of the brain. On the contrary, it was a political delusion, so to speak—a false belief founded on ignorance, faulty education and warped—not diseased—reason and judgment—the false belief which dominates the politico-social sect to which he belonged and of which he was a zealot, who in common with his kind believes that all forms of government are

wrong and unnecessary—a body of mal-contents whose teachings oppose all government and who advocate the use of violence to destroy the existing social and civil order of things. By his own admissions, Czolgosz was a devout Anarchist and a firm believer in the principles of Free Society as taught by Emma Goldman—of whom he was an ardent admirer—and others. These were the beliefs which furnished the motives for the murderous deed.

That Czolgosz was an Anarchist and actuated in his crime by the motives which spring from the teachings of that sect, are clearly shown by: 1. His declarations after his arrest, namely, that he did not believe in any form of government or law and that all rulers were tyrants who ought to be put down. 2. His admissions to the District Attorney that he was a member of anarchistic societies or circles, and had frequently attended the meetings of the same; also that he had been influenced in his views by the "lectures" of Emma Goldman; and that when apprehended anarchistic literature was found on his person, and 3. The recognition and commendation which he has received at the hands of Anarchists at their meetings both in this country and abroad since his death, several of these societies having openly recognized him as such and lauded his action.

The Anarchists' creed teaches that when one of their number is selected to do a certain deed, he is to proceed about it quietly and in his own way, taking no one into his confidence; that, having accomplished the deed, if apprehended he shall not admit his connection with any other members of the circle; that, if convicted and sentenced to die he shall go to his death without revealing his connection with others, resting secure in the belief that he will be ever regarded by his associates as a martyr and a hero who died in the discharge of a noble duty. The course and conduct of Czolgosz from the beginning down to his death are entirely in keeping with this creed. And finally the cool and courageous manner in which he met his death, and the fact that from the day of his arrest until he died, he never uttered a word that could be used against his accomplices—if he had any—and that he died—as Anarchists who suffer the death penalty always die—without uttering a word that would tend to incriminate any of his co-conspirators, tend to stamp him as an Anarchist.

In conclusion, the writer having viewed the case in all its aspects, with due regard to the bearing and significance of every fact and circumstance relative thereto that was accessible to him, records his opinion unqualifiedly that Leon F. Czolgosz on September 6, 1901, when he assassinated President McKinley, was in all respects a sane man—both legally and medically—and fully responsible for his act."

Dr. Edward A. Spitzka, a distinguished surgeon who had charge of the autopsy, afterwards wrote in a medical journal:[18]

[18] See, The Trial, Execution, Autopsy and Mental Status of Leon F. Czolgosz (MacDonald and Spitzka). Ante page 164.

"The results of the necropsy can be summed up by saying that Czolgosz was in excellent health at the time of his death. * * * The question as to whether his body invested a healthy mind opens up a wide topic for discussion which it is not entirely in the writer's province to pursue. So far as our knowledge of the correlation of brain-structure and brain-function extends, nothing has been found in the brain of this assassin that would condone his crime for the reason of mental disease due to intrinsic cerebral defect or distortion. The brain-weight, though by itself unimportant, when considered in its other relations points to a good condition of the organ. * * * The skull is not symmetrical, but the asymmetry is slight and fully within the normal range of variation. An absolutely symmetrical skull probably does not exist. * * * It is a probable fact that certain oft-mentioned aberrations from the normal standard of brain-structure are commonly encountered in some criminal or degraded classes of society, and those who have attempted to found a school of degeneracy have endeavored to explain crime and social wickedness as due to the accidental persistence of lower types of human organization. But these structural anomalies, so far as they have been described in the brains of criminals, are too few and too insufficiently corroborated to warrant us in drawing conclusions from them. Various perversions or anomalies of mind may exist in this class without presenting a uniform criminal type, either from the sociological or the anatomic aspect. Of course, it is far more difficult—and it is impossible in some cases—to establish sanity upon the results of an examination of the brain, than it is to prove insanity. It is well-known that some forms of psychosis have absolutely no ascertainable anatomical basis; and the assumption has been made that these psychoses depend rather upon circulatory and chemical disturbances. So far as this question touches upon the brain and body of Czolgosz, there have been found absolutely none of those conditions of any of the viscera that could have been at the bottom of any mental derangement. Taking all in all, the verdict must be socially diseased and perverted, but not mentally diseased. The most horrible violations of human law can not always be condoned by the plea of insanity. The wild beast slumbers in us all. It is not always necessary to invoke insanity to explain its awakening."

THE SPEECHES TO THE JURY.

Mr. Lewis. Gentlemen of the Jury: This being the first time in over twenty years that I have had occasion to address a jury as counsel in a case, you may imagine that I feel somewhat in a strange position, especially in a case of the importance of this. A great calamity has befallen our nation. The President has been stricken down and died in our city. It is shown beyond any peradventure of doubt that it was

at the defendant's hand that he was stricken down, and the only question that can be discussed or considered in this case is the question whether that act was that of a sane person. If it was, then the defendant is guilty of the murder and must suffer the penalty. If it was the act of an insane man, then he is not guilty of murder but should be acquitted of that charge and would then be confined in a lunatic asylum.

Much discussion and much talk has occurred in our midst and has been called to my attention as to the propriety of any defense being interposed in this case. Many letters have been received by me since I was assigned with my associates to defend this man, questioning the propriety of a defense being attempted.[19] You gentlemen know perhaps

[19] The following is one of these letters:

"Sept. 17, 1901. To the Hon. Robt. Titus & L. L. Lewis. Gentlemen: As the representative of 100 business men who asked the Mayor for a permit to hold an indigantion meeting last Saturday evening, earnestly implore you on their behalf not to act as counsel for the assassin Czolgosz. If you make an elaborate defense for him you know how the whole people of the United States would feel towards you (few people would take into consideration that it was your duty—our outraged people would never be convinced that justice to such a wretch could be given by an American citizen). If you didn't succeed in doing him any good, your reputation is more or less at stake and in any event gentlemen of your reputation from your hearts cannot be compelled to act as counsel for one of the vilest wretches that this great and glorious Nation has ever had the misfortune to encounter. Your names as counsel for a wretch who the whole world condemns, would go down into history—the assassin has repeatedly said he didn't want counsel. Why disgrace any American attorney's name in forcing him to do a duty (which no man with a heart can do) which the assassin don't want from a government he repudiates even to death. I implore you, Hon. gentlemen, on behalf of the committee of 100, and the whole United States, to refuse, under all conditions, to act as counsel for that miserable wretch who even refused counsel from the easiest people on the face of the earth, after robbing them of their beloved President. Again we implore you, or any other good American citizen, from even extending a good word on his behalf—it would give me the greatest pleasure on earth if I could only extend my hand of greeting to the wretch as he did to the poor honored martyred President. Respectfully yours, The Committee of 100. (Now the committee of 500, and increasing every day.)"

how Judge Titus and myself came into this case. The position was not sought by us but we appear here in performance of a duty which we think devolved upon us notwithstanding it is an exceedingly unpleasant one. His Honor the Judge who presides upon this trial as Justice of the Supreme Court sits here because the law makes it his duty to sit and preside over this trial; our very efficient and able District Attorney is prosecuting this action because the law makes it his duty to prosecute the action; you gentlemen are sitting here as jurors because you were commanded to appear here, and under our system of jurisprudence it was your duty to sit here and hear the testimony in this case and perform the unpleasant duty of determining whether this man is to be executed or whether he is to be acquitted. The defendant's counsel appear here because under our system of jurisprudence no man can be placed upon trial for the high crime of murder, the penalty of which is death, without the assistance of counsel. The court has the power to designate, and it is the duty of the counsel thus designated, to appear in the case unless they can make some reasonable excuse and succeed in being relieved of duty. Gentlemen, when we become members of the legal profession we become members of the court. We are compelled, if assigned to defend one who is charged with committing a crime, to respond and accept the duty unless we can present some reasonable excuse why we should be excused, and, as I understand, if we arbitrarily refuse to perform the duty which the court imposes upon us, we are guilty of a misdemeanor and liable to be punished by the court.

So that you see, gentlemen, if any simple-minded, thoughtless person should entertain the notion for a moment that the counsel who appear in this case are doing something they ought not to do, that person is laboring under a very serious misapprehension as to the duties devolving upon a lawyer.

Everyone, no matter how enormous the crime that he may have committed, is, under our laws, entitled to the benefit of a trial. In a case of murder in the first degree he must

have a trial. You sat here and listened to the defendant's plea of guilty when he was arraigned by the learned District Attorney, but the law of our state will not permit a man to plead guilty of such a crime as this. The law is so merciful of the rights of its citizens that it will not permit a man to plead guilty of the high crime of murder, so that even after he had conceded his guilt in this case, it was incumbent upon the court to insist that the trial should proceed and that the People should establish, beyond a reasonable doubt, that the defendant was guilty of the crime charged against him. There are, in our community, individuals probably—not, I hope, in very large numbers, but we know they are scattered all over our country, who think that in a case like this, or even in charges of much less enormity, that it is entirely proper that the case should be disposed of by lynch law, by mob law, and we can hardly take up a paper without learning that in some part of this free and independent country, a country where law prevails or should prevail, of a man having been mobbed upon the suspicion or belief that he was guilty of some crime. This state of things does not exist in our community, but it does in some parts of our country, as every reading, intelligent man knows. It is charged here that our client is an Anarchist, a man who does not believe in any law or in any form of government, and there are, as we are told, individuals who entertain that opinion, societies which entertain that opinion. We all feel that such doctrines are dangerous, are criminal, are the doctrines that will subvert our government in time if they are allowed to prevail. But, gentlemen of the jury, while I firmly believe in that, I do not believe that it amounts in danger to this country equal to the belief that is becoming so common that men who are charged with crime shall not be permitted to go through the form of a trial in a court of justice, but that lynch law should take the place of the calm and dignified administration of law in our courts of justice. When that doctrine becomes sufficiently prevalent in this country, if it ever does, our institutions will be set aside and overthrown, and if we are not misinformed as

to the state of the mind of the public in some parts of our country, the time is fast approaching when men charged with crime will not be permitted to come into the court and submit to a calm and dignified trial, but will be strung up upon a tree, upon the bare suspicion sometimes of the fact that they may have committed some crime. Why, it is not long since I read in a paper that a colored man in the South was mobbed and his life taken because he had insulted a white man. What the insult was the newspaper did not say, but he had insulted a white man and his life was taken because of that insult to the white man. Now I suggest, gentlemen, that that class of community who are crying out in our streets and who are sending letters suggesting that a man charged with the crime that this defendent is, should not be permitted to have a trial before a court of justice, I submit that they are a more dangerous class of community than the Anarchists about whom we read so much. No, it is the duty of every American citizen, of every good man, to stand firmly by the law, to put his face against any idea that a man should be punished for any crime until he is proven guilty in a court, beyond any reasonable doubt.

My associates and myself are here to uphold the law. Some weak-minded, foolish people entertain the notion that a lawyer, when he appears in defense of a criminal, is in court to obstruct the due administration of law, is in court to raise every technicality that he can to prolong the trial and to reverse any verdict which a jury may render, but no man who understands and knows the better class of the members of the bar entertains any such notion. My associates and myself are here for the same purpose that the learned District Attorney is here—to see that this trial progresses in a legal, orderly and proper manner, and, as I suggest, we must, in every way possible, put down and suppress this feeling that cases may be disposed of without the intervention of courts of justice.

I remember, gentlemen, when I was a young man living in the city of Auburn, studying my profession, that the news

came that a colored man had gone up upon the shore of the Owasco Lake and there had murdered practically an entire family by the name of Van Ness. The news came into the town where I was at the time and it created an intense excitement. The people gathered upon the street to hear the news. In the course of the afternoon, after the commission of the crime, it was understood that a colored man, Freeman, had been arrested and was being brought to the city to be incarcerated in the jail. The people upon the street became more and more excited. They began to talk about mobbing the colored man when he should arrive—that he was not entitled to a trial. Mr. William H. Seward, who was then a resident of the city of Auburn, appeared upon the street and counseled moderation, counseled the people to wait and see whether the man was guilty of the crime, to permit him to have a legal, lawful trial. But the people protested—"He is guilty beyond any doubt; he must be disposed of at once." Mr. Seward still insisted and they succeeded in incarcerating Freeman in the jail. It soon became known that Mr. Seward had volunteered, without any designation of the court, had volunteered to defend the negro when he was put upon trial, and then the indignation arose again that he should interpose a defense in such a case as that, and that far-seeing man, that statesman, who saw that there was an opportunity to give an object lesson to the world as to the proper disposition of such a case, stubbornly insisted that he would defend the negro. He was put upon trial and for two long months that trial proceeded; as I remember, it occupied some three weeks in obtaining a jury, and the trial consumed at least two months, and I sat by during almost the entire length of that trial and listened to the defense that Mr. Seward interposed—not that he cared anything for the negro, but he wanted to teach the people of the country the sacredness of the law; he wanted to impress upon them the importance of maintaining the law and putting down mob violence.[20]

[20] See, Trial of Freeman, 16 Am. St. Tr.

And this trial is a great object lesson to the world in that regard. Here is a case where a man has stricken down the beloved President of this country, in broad daylight, in the presence of hundreds and thousands of spectators. If there ever was a case that would excite the anger, the wrath of those who saw it, this was one, and yet, under the advice of the President, "Let no man hurt him," he was taken, confined in our prison, indicted, put upon trial here, and the case is soon to be submitted to you whether he is guilty of the crime charged against him.

That, gentlemen, speaks volumes in favor of the orderly conduct of the people of the city of Buffalo. Here was a man occupying the exalted position of President of this great republic, a man of irreproachable character, a man against whose character not the least stain was ever known, who had come to our city to assist us in promoting the prosperity of our great exposition. He submitted to being met by the people who desired to see him, in order to help on this great enterprise in which we have been interested, and he was stricken down and died from the effects of the wounds. It has touched every heart in this community and in the world, and yet we sit here today in this room quietly considering the question whether this man is responsible for the act which he committed, and the question, gentlemen, is one that you are called upon to decide.

The law presumes that this man is innocent of the crime, and we start, in investigating this case, with the assumption that for some reason or other he is not responsible for the act which he performed on that day. That is one of the merciful provisions of the law of this civilized state and it is a provision of law which you must consider and which you must permit to influence your minds until you are satisfied by the evidence in the case that that doubt has been removed.

Now, gentlemen, we have not been able to present any evidence upon our part. The defendant has even refused on almost every occasion to even talk with his counsel; he

has not aided us; so that we have come here under, as I said to you, the designation of the court, to do what we can to determine this important question which is to be submitted to you.

All that I can say, to aid you, is that every human being has a strong desire to live. Death is a spectre that we all dislike to meet, and here this defendant, without having any animosity against our President, without any motive, so far as we can see, personal motive, we find him going into this building, in the presence of these hundreds of people, and committing an act which, if he was sane, must cause his death.

Now, could a man, with a sane mind, perform such an act? Of course, the rabble in the street would say, "no matter whether he is insane or sane, he deserves to be killed at once;" but the law says, no; the law says, consider all the circumstances and see whether the man was in his right mind or not. But one may say, "why, it is better that he should be convicted, as a terror to others." That may be so in some regards, but, gentlemen of the jury, if it could be, if it can be that you find that this defendant was not responsible for the crime, for this act, you would aid in lifting a great cloud from the hearts and minds of the people of this country and of the world. If our beloved President had met with a railroad accident coming here to our city and had been killed, we should all regret very much, we should mourn over the loss of such a just man, but our grief would not begin to compare with the grief that we have now, that he should be stricken down by an assassin. That adds poignancy to our grief—it does in my case, to a very large extent. But if you could find that he met his fate by the act of an insane man, it would amount to the same as though he met it accidentally, by some accident, and passed away under such circumstances.

Now, gentlemen, I have said about all I care to say about this case. The President of the United States was a man for whom I had the very profoundest respect. I have watched

his career from the time he entered Congress—twenty or more years ago—until his last breath here in the City of Buffalo, and every act of the man, so far as I could judge, has been the act of one of the noblest men that God ever made. His policy, we care nothing about that so far as we may differ as to his policy, but his policy has always met with my profoundest admiration in every respect. I have known him not only as a statesman, but I have known him, through the public press and otherwise, as a citizen, a man of irreproachable character, a loving husband, a grand man in every aspect that you could conceive of, and his death has been the saddest blow to me that has occurred in many years.[21]

Mr. Titus. If the Court please, the remarks of my distinguished associate have so fully and completely covered the

[21] "Turning to the jury, the venerable lawyer began to speak. It was the first time in 20 years that he had addressed a jury. There were old lawyers in the court room who, as they listened, recalled by-gone days when the distinguished jurist was in the zenith of his glory as a great trial lawyer. He spoke deliberately, impressively. He stood, a picturesque figure, with snowy white hair and beard, soft voice and gentle manner. He was garbed in black. Clearly his task was not to his liking, but with his opening sentences he drew the attention of all and held it, unbroken to the end. It must have galled the assassin to hear himself and his crime used as the pretext for so lofty and dignified and able a speech as Judge Lewis made. Twice the speaker was compelled, by emotion, to pause. His eulogy of the dead president was most affecting and Judge Lewis stopped abruptly, his eyes filled with tears, overcome by emotion. His voice wavered and broke with the last sentence and he sat down with his handkerchief to his eyes."—The Buffalo Express, Sept. 24, 1901.

Judge Lewis received after the trial, more than a hundred letters from prominent lawyers and others and from different sections of the country commending his defense of the prisoner and especially his plea for maintaining the dignity of the law. From them the editor has selected the following:

At my earliest convenience, I write, in behalf of the Erie County Bar Association, to congratulate you upon the conspicuous ability and fairness with which you discharged a disagreeable duty in the defense of Czolgosz. By so doing, you distinguished yourself, your city, your profession, and your brethren at the Bar, and, most of all, you made your country your lasting debtor for the service ren-

ground and so largely anticipated what I intended to present to the jury myself, that it seems entirely unnecessary for me to reiterate what has already been said upon this sub-

dered in behalf of the law. Your defense of Czolgosz was in the very spirit of the last words of President McKinley concerning him.

—ADELBERT MOOT, President Erie County Bar Association.

I enclose herewith a copy of a letter received from the Secretary of War concerning the trial of Czolgosz and the dignified way in which the case and the punishment of the prisoner, were conducted. Very truly yours, B. B. Odell, Governor of New York.

"WAR DEPARTMENT.

(COPY) Washington, November 6, 1901.

The Honorable Benjamin B. Odell, Governor of New York. My dear Sir::—I beg you to accept and to convey to the officers charged with the administration of justice in the State of New York, and particularly in Erie County, an expression of satisfaction and approval upon the effective and dignified way in which the law has been vindicated, and the ends of justice have been attained, in the prosecution and punishment of the assassin Czolgosz. The Court, the Prosecuting Attorney, the officers who had the prisoner in charge—all appear to have performed their duties with effectiveness and decorum, and particular credit seems due to the distinguished gentlemen who, upon the request of the Bar of Erie County, undertook the disagreeable task of protecting the legal rights of the wretched culprit under the assignment of the Court.

The course of justice was swift, but measured. Protection against lawless violence was shown to be consistent with the certain and awful punishment of guilt. No opportunity for defense was withheld; but no opportunity for spectacular display, or the gratification of vanity, which is so great an incentive to such crime, was afforded. I know that this has been appreciated by the representative of New York in that Cabinet. I am authorized to say that President Roosevelt fully concurs in the sentiments which I have expressed. I remain my dear Governor, with great respect and esteem, Your obedient servant,

ELIHU H. ROOT, Secretary of War."

Permit a stranger to you to express his profound appreciation that our country in its sore trial was so fortunate as to secure, in the trial of the assassin of our great President, men of such character and ability as yourself and Judge Titus. The assurance which this choice gave us that there would be no objectionable features connected with the trial, has been fully sustained. I read your address to the jury this morning with the deepest interest. It ought to be published in every town of our country. It should be read in

ject, and we, therefore, rest with the remarks made by Judge Lewis.

District Attorney Penney. Gentlemen of the Jury: It is hardly possible for any man to stand before his fellow-men and talk without the deepest emotion concerning the awful tragedy that has come upon the entire world. A remarkable exhibition of feeling has just been made to you by the distinguished jurist who was forced by his duty as a citizen,

every school of the land. It is not only the profoundest wisdom, but its form is a classic. Excuse my intruding myself upon you, but I cannot restrain my impulse to thank you for your noble part in this extremely trying situation. Very truly,

JAMES R. DAY, Chancellor Syracuse University.

As President of the Iowa State Bar Association, I would like very much to have a copy of the Daily Press of your City, which contains proceedings of the Czolgosz trial. I especially desire your address to the Jury in that case. I congratulate you on the noble effort you have made in the vindication of the law and the condemnation of lynch law. I congratulate the Bench and the Bar of Buffalo on the speedy and equitable trial granted to this unfortunate wretch. I trust that the people of the United States will learn a salutary lesson from this trial, and that the disgraceful scenes that have been enacted in various parts of the country in condemning, even criminals, to death without due process of law, will be at an end. Hoping I may hear from you, and wishing you every personal blessing, I remain,

J. H. McCONLOGUE," President Iowa State Bar Association.

My gratitude to you for the plea which you made at the Czolgosz trial is so real and sincere that I am not content with just feeling it. I teach a class of boys in a grammar school in Brooklyn, the class which promotes to the high school, and I wanted my boys to see that the saving of the assassin for legal trial was a triumph for law and order for which every American ought to be devotedly thankful. So when I read your plea and found in it just what I wanted to say, stated in a manner so clear, so simple, so direct, that I knew my youngest pupil could grasp it, I carried it off with delight to read during the civil government period. When I read, as impressively as I knew how, the paragraphs which laid such stress on duty—that splendid word which the children of this day seldom hear—and those which called attention to the great danger of the spread of the belief that lynch law should take the place of the law of a court of justice, many faces showed intelligent ap-

as a lawyer and as a judge to carry out the absolute mandates of our law and to stand here before you and present the formal rights of this defendant. He says to you that there is no question, that it has been proved beyond any peradventure that this man was the instrument that caused the death of our beloved President, and he simply leaves you with the statement that if this man was mentally responsible, then he is fully and absolutely guilty of the crime of murder in the first degree. Gentlemen, we have been expeditious in the presentation of this case to you, still we have endeavored to present it to you with no indecent haste. We have endeavored to present to you all the essentials, all the material elements that go to make up the crime of murder in the first degree. We have shown you that our beloved President was shot on the 6th day of September; we have shown you the history of that wound and that he came to his death as the result of it. We have shown you that this defendant stood there in the Temple of Music on that Friday afternoon and with this weapon, we have exhibited here, fired the fatal bullet. We have shown you, by witnesses, the admissions of this man concerning his premeditation and deliberation, for how long a period he had thought about this awful crime, where he was born and educated and where he got the seeds of this terrible deed in his heart. We have shown you that he had gone to these anarchistic or socialistic meetings and that there had been embedded in his diseased heart the seeds of this awful crime which resulted in that terrible shot on Friday afternoon. He retailed and detailed to the different people the history of himself and of

preciation and approval. It took me twenty-two minutes to read it and they all listened attentively to the end. When I closed, there was no applause, scarcely a change of position, but each boy looked up to receive the order for the next period with a face which indicated that he meant to do his duty and conform to the law of the school room. Could I have had a more gratifying commentary? Thanking you for the help that your words have been to me and to my boys, I am, Very sincerely yours,

EFFIE L. SMITH, Brooklyn, N. Y.

his cogitations, how he was led up to do this act, and the counsel says to you gentlemen that if—IF—the man was sane, then he is responsible. He says to you that this man must be presumed to be innocent, that that is a presumption of our law. But it is also a presumption of our law that every man is sane until proven insane. In other words, the prosecution has the right to come in here and rely on the presumption that every man who is charged with crime is sane and mentally and morally responsible for his acts unless he himself introduces evidence showing the contrary. Therefore, gentlemen, the question seems simple to me. What evidence is there in this case that this man is not sane? Under the presumption of the law that he is sane and under the admissions that have been made here that he is the agent that caused the death, with all the elements that go to make up the crime absolutely proven, how brief ought to be your meditation, how brief ought to be your consultation about the responsibility and criminality of this individual?

Gentlemen of the jury, this is not a case for oratorical flights or for vivid imagination. Both the counsel for the defense and the counsel for the prosecution have endeavored to eliminate everything of a sensational character from everything concerning this case, and I intend in this address to you to continue that line of procedure. I do not intend to make any attempt at oratorical flights; I do not intend to work upon my imagination or try to sway you under my expressions here of the enormity of this offense. It is unnecessary. You, as well as I, and as well as every citizen of the civilized world, understand the enormous responsibility that is now about to devolve upon you. The Counsel wisely and well said to you that no man should be put out of existence by lynch law. The counsel well said to you that the people of Buffalo are to be commended for the orderly and law-abiding spirit and treatment that they have given this case. But at the same time, gentlemen, the law must be vindicated. Enough has been said, enough has been shown, enough has been demonstrated to forcibly convince me—and I know it

has convinced you—that a terrible thing has happened and it has happened because there is a certain class of people in this country who unless they feel the strong arm of justice, the strong arm of the law, is so irresistible as to force down everything that is against law and order, are going to bring about something terrible to our beloved country. Gentlemen, it is an awful, an awe-inspiring and a great truth that has been taught in this case. When I think, gentlemen, of that grand man who stood but a few days ago in the Temple of Music, the man who had come from the lowly walks of life, who had made his own way by his own unaided strength and courage, as a lawyer, congressman, governor and then President, and, more than all else, a loving husband, the man who cherished his sick wife through all the terrible weeks of her illness, notwithstanding the great responsibilities upon him as President of our country, a man who was so great that on his dying bed the last words that he said were "It is God's way, not ours; His will be done, good-bye, good-bye,"—that man who was still so great and yet who could stand and take the hand of this man, his assassin, even the worst man that you could imagine, who offered to take into his hand that creature and shake him by the hand upon the same floor, upon the same level, without taking unto himself any of the things that he could and perhaps ought to have taken by reason of his great achievements,—think of it, gentlemen! think of the great spectacle, the great lesson that it has taught, the great things that our country produces; a man so great, can stoop so low; a man so great that he can forgive his own assassin; so great that he does not hold against him one word, one thought of ill-will;—the noblest man, I believe, that God ever created upon the soil of the United States was taken from our midst—and yet withal, with all that terrible calamity, and, as a man said to me who stood right beside our beloved President when he was shot, he said to me only two or three days ago: "I have traveled all over our broad land since that awful calamity, I have seen thousands and thousands of people collect along the railroad even to get a glimpse

at the train; I have seen people stand for hours in the rain to look upon the outside of his casket; I have seen people mourn and shed tears for hour after hour who never saw that great man," and I am convinced, if I never was before, that there is such a thing as a national heart and that that great national heart has been weeping as it never wept before, that great heart is broken and it will take God's own time and God's own way to heal it, such a great calamity has been brought about. Brought by what? By this instrument of an awful class of people that have come to our shores, a class of people that must be taught, that should be taught and shall be taught that it is entirely foreign to our laws, to our institutions and to the laws and institutions that evolved such a man as William McKinley, that they have no place upon our shores, that if they cannot conform to our laws and our institutions, then they must go hence and keep forever from us; that they will not be permitted to come here, to stay here to educate themselves into the notion that they can take the life of any individual irrespective of consequences, and come into a court for protection. Think, gentlemen; think of the grand spectacle that is illustrated here! Here is a man who professes that he does not want a lawyer, that he does not believe in law, that he does not believe in God, that he does not believe in the marriage relation, that he believes in the destruction of life by individuals, and yet, notwithstanding those beliefs, those theories, those ideas, our laws and our institutions insist that he should be represented by two of the ablest and most respected jurists in our city, that we should go through all the legal formalities just the same as if he were the most respected and highly-thought-of man heretofore, that all the laws and forms of law must be complied with, and even though he comes into court and tells you prior to trial that he is guilty of the crime charged, yet notwithstanding, gentlemen, under our constitution you must sit here and listen to the formal proof on the part of the People, so that our law must be vindicated, our institutions must be lived up to, the greatest thought of our people must be demonstrated to be

correct notwithstanding the fact that this man himself says he does not want it.

Gentlemen, I have said all that I care to say; I have said perhaps more than I ought to say. It is not necessary for me or any one else to say anything to you. You know your duty. You have sworn to give this man a fair trial upon the evidence. And what is the evidence? The evidence has been adduced on the part of the People, as I claim, fully and absolutely demonstrating every element of the crime charged, and that is all there is of this case.

Gentlemen, this has been an orderly procedure, without indecent haste, but still it has been with the idea, with the irresistible impulse to insist and to carry out the strict law applicable to this terrible crime. The duty of the counsel on both sides is now ended; the Court will charge you briefly and then it is your duty to take up the case. I have the greatest confidence in each one of you and I have no doubt that the same thought, the same idea, the same object is in all your minds, that our beloved country, even though we have lost one of our greatest men, shall still retain the respect of the whole world and everybody shall be taught, by your treatment of the case, that no man, no matter who he is or where he hails from, can come here and commit such a dastardly act, not only against such an individual but against our laws and institutions, and not receive the full penalty of the law.

THE CHARGE TO THE JURY.

JUDGE WHITE. Gentlemen of the Jury:—The defendant in this case is charged by the People of the State of New York with the crime of murder in the first degree. The law requires that he shall in the first place be brought into court and allowed an opportunity to plead to the charge. In this case the defendant has so appeared, and he has acknowledged his guilt. Such an acknowledgment, such a plea, under such circumstances, is not conclusive upon the Jury or the Court, and the law requires that notwithstanding such a plea, a formal and orderly and a lawful trial shall be accorded to the defendant.

The question of the guilt or innocence of this defendant, Gentlemen of the Jury, is, at this moment, an original one with you. It will be submitted to you for your determination as to whether or not the defendant is guilty; and the presumption is, and it must be observed by you, that up to this time, and until you shall otherwise decide, that he is an innocent man. The law guarantees, as I have said, that he shall be fairly tried, and that he shall be tried by twelve men who are impartial, who are intelligent, who are capable of sifting the testimony and the evidence as it is given upon the trial, and determine from such an examination as that where the truth of the matter lies. While it is conceded by the defendant, and by his counsel, that this defendant fired the shot that caused the death of William McKinley, it does not follow, Gentlemen of the Jury, that he is guilty of, or that he should be found by you guilty of, the crime of murder, or of any crime. The question as to whether he is or is not guilty is an original one up to this time with you.

It is incumbent upon the People in order to satisfy you that the defendant is guilty of the crime charged against him to produce such evidence as convinces your minds beyond a reasonable doubt that he is guilty. If the People fail to do that, if in this case they have failed to do it, notwithstanding any impression that you may have received, any opinion which you individually may have formed concerning the case, if on a careful and full comparison and examination of all the evidence and all the circumstances in the case there exists in your minds a reasonable doubt of the man's guilt and responsibility under the law, it is your duty to acquit him.

In order to satisfy you, gentlemen, that the defendant is guilty, the People have produced a line of testimony tending to show that on the day of the shooting, to-wit, the sixth day of September, 1901, that this defendant did shoot and kill the president of the United States. They have given evidence tending to show that the defendant premeditated and deliberated upon the commission of this alleged crime before he committed it.

If you are satisfied, Gentlemen of the Jury, from the evidence in those respects that there was a predetermined design on the part of this defendant to effect the death of William McKinley, and in pursuance of that design these shots were fired and his life was sacrificed, he is guilty of murder in the first degree. Unless you are satisfied of that fact, it is your duty, as I have already said to you, to acquit the defendant.

Something has been said, and very properly, too, concerning the person who was killed—The President of the United States. The President of the United States stood on the occasion of this shooting, as counsel upon both sides of this case have told you, as the representative of the majesty and dignity of the Nation, and the attack upon him for which the defendant was arrested, if he was responsible for the act, is indeed a high crime.

It was an assault upon the dignity and the majesty of the law. But you, Gentlemen of the Jury, should not be permitted, nor should thoughts of that kind be permitted under any circumstances to sway you from the line of your duty as you may see it. In other words, the oath which you took when you entered the panel here to try this man was that you would give a true verdict according to the evidence in *this* case. What that evidence proves, Gentlemen of the Jury, is for you to say. You are not bound to find criminal responsibility from any or all of the evidence which has been given upon this case. In other words, it is for you to say whether it is true—what the fact is. In the language of the books, you are the sole judges of all the questions of fact involved in the case. The fact, Gentlemen of the Jury, that a verdict of guilty might necessitate the death of the defendant should not be permitted to sway you from the discharge of your duty as you see it. I have said that you are bound to find the defendant guilty and criminally responsible for his act beyond a reasonable doubt before you can convict.

Now, it may be when you come to retire and deliberate upon this case that you may ask yourselves "What is a reasonable doubt." I think it is sufficient upon that subject to say to

you that while a great deal has been written and a great deal has been said in defining what a reasonable doubt is, that it means so far as your application of the principle here is concerned, that you are bound to sift, compare and examine all of the evidence and all of the circumstances which have been developed upon this trial; and if, when you have done that, there exists in your mind a doubt as to the criminal responsibility of this man, you are bound to acquit him. If you are satisfied after such an examination and such a comparison that there is no question about the man's guilt, you are bound to convict.

Gentlemen of the Jury, there are, in a homicide, which is the killing of one human being by another, such as the circumstances of this case has developed, provisions of law that a Jury may find the defendant guilty, if they believe him guilty of any crime at all, of any one of four degrees of the crime. The first is murder in the first degree. The second is murder in the second degree. The third is manslaughter in the first degree. The fourth is manslaughter in the second degree. Your attention will be called further on specifically to what the three first of these provisions of the law relate.

I want to say this at this time: That up to this time, up to this point in the progress of his lamentable affair, that so far as the Court, so far as the jurors in the presence of the Court, so far as other people in the presence of the Court is concerned, there has been that decorum and that respect which, it seems to me, ought to furnish an object lesson to the people of our country as perhaps it will to the people of other countries. There has been up to this time no attempt to unfairly influence you or to unfairly secure a verdict one way or the other at your hands either by the defense or by the People. Counsel have discussed the facts and circumstances of this occurrence from their respective points of view as it was their duty to do, and you have had the privilege of listening to counsel experienced in the law concerning the rights of the defendant, concerning the enormity of the crime and all that, if he is criminally responsible at all. The fact that the

man who was killed was the President of the United States, as I have already said to you, in and of itself is not of much significance. The crime is against the majesty and the dignity of the law, and I believe, Gentlemen of the Jury, that we can pay no higher tribute to the man who is dead than to observe that exalted opinion and reverence for the law which he would ask if he were here. As it seems to me, it has been well said that a disposition to incite others to the commission of crime, is certainly as reprehensible, except possibly in degree, in the minds of some of us as the alleged crime which we are trying here today. Incitement to unlawful violence, to lynching and to commit offenses against the law evidences at any rate anarchists in embryo. The man who is ready to go out on the street today and commit a crime because some other man has committed a crime is as guilty in his heart as the man who has already committed the act; and it is for that reason if I can do anything in this case to impress upon the community, to impress upon the people of this State, the necessity for the observance of the law and its due and orderly administration, I will accomplish certainly a good purpose.

Now, Gentlemen of the Jury, to be more specific, let me say to you this should be your guide in the conduct and consideration of this case when it is placed in your hands. If you will listen carefully, I think your duties will be plain; and, in this connection, it is but fair to say that so far as the legal aspects of this case are concerned, it is your duty and your oath compels you to observe the principles by which you are to be guided as laid down to you by the Court. So let me say in closing that if on the sixth day of September, 1901, the defendant did wrongfully without justifiable cause or excuse assault, shoot and wound William McKinley at the place, in the manner and by the means alleged in the indictment upon which he is being tried, and such assault, shooting and wounding were committed from a deliberate and premeditated design to effect the death of the said William McKinley, or of another, and if the said William McKinley thereafter died

from the effects of such assault, shooting and wounding, and such assault, shooting and wounding were the sole and proximate cause of his death, and if at the time of such assault, shooting and wounding, the defendant was not laboring under such a defect of reason as not to know the nature and quality of the act he was doing or that it was wrong, he is guilty of murder in the first degree. If you in your deliberations find that the defendant is guilty of murder in the first degree as charged in the indictment, you will render your verdict in that form. When you are asked by the Clerk as to how you find, your verdict will be, if you find him guilty of murder in the first degree, "Guilty of murder in the first degree as charged in the indictment."

If, however, you gentlemen are not saisfied that this defendant is guilty of murder in the first degree from all the evidence and facts and circumstances in the case, then you will proceed to determine whether he is guilty of murder in the second degree. In that regard it is sufficient for me to say to you that if on the sixth day of September, 1901, the defendant did wrongfully, without justifiable cause or excuse, assault, shoot and wound William McKinley at the place, in the manner and by the means alleged in the indictment upon which he is being tried, and such assault, shooting and wounding were committed with a design to effect the death of said William McKinley, or of another, but without premeditation and deliberation, and if the said William McKinley died thereafter from the effects of such assault, shooting and wounding, and such assault, shooting and wounding were the sole and proximate cause of his death, and if at the time of such assault, shooting and wounding the defendant was not laboring under such a defect of reason as not to know the nature and quality of the act he was doing or that it was wrong, he is guilty of murder in the second degree.

The second proposition, as I have given it to you, eliminates premeditation and deliberation.

If you should not find him guilty of murder in the first degree, therefore, and you find under the evidence in the case

that he is guilty in the manner and to the extent that I have already called your attention to, then the form of your verdict will be, when asked by the Clerk how you find, "Guilty of murder in the second degree."

If, however, you find there is a reasonable doubt in your minds as to his guilt upon both of these propositions, you will pass to the consideration of the question whether he is guilty of manslaughter in the first degree. In that regard, if on September sixth, 1901, the defendant assaulted, shot and wounded William McKinley at the place, in the manner and by the means as alleged in the indictment, with a dangerous weapon—and in this case the evidence is that the weapon used was a revolver loaded with powder and balls—without justification or excuse and without a design to effect the death of said William McKinley, or of another, and the said William McKinley thereafter died solely in consequence of the effects of such assault, shooting and wounding by means of a dangerous weapon, and the defendant was not at the time of such assault, shooting and wounding laboring under such a defect of reason as not to know the nature and quality of the act he was doing or that it was wrong, then, Gentlemen of the Jury, he is guilty of manslaughter in the first degree.

I do not think the evidence in this case calls upon me to say anything concerning the crime of manslaughter in the second degree.

You see the test of responsibility is made by law and is whether or not the defendant was laboring under such a defect of reason as not to know the nature or quality of the act that he was doing or that it was wrong. In other words, if he was laboring under such a defect of reason as not to know the nature and the quality of the act that he was doing or that it was wrong, it is your duty, Gentlemen of the Jury, to acquit him in this case. That is the test so far as the plea or claim of irresponsibility is concerned. If he premeditated and deliberated upon the commission of this shooting, and if it was done with a design to effect the death of William McKinlay, and if at that time he was not laboring under such a de-

fect of reason as not to know the nature and quality of the act that he was doing or that it was wrong, he is responsible. That is the test so far as responsibility is concerned under the laws of this State.

Gentlemen of the Jury, I commend the patience and the care which I have observed on your part as the evidence was being given in this case, to its smallest detail. You have been patient, as I say, and apparently you have been attentive to the case as presented by the People and the time has now come when it is to be left in your hands for a final determination.

It is very desirable, Gentlemen of the Jury, that this proceeding, as it has been characterized from the beginning, shall continue to the end; that there shall be no unseemly demonstrations; that there shall be no conduct which would bring the blush of shame to the cheeks of any one, either on your part or on the part of the people who listen to the proceedings in this case; and in that behalf, Gentlemen of the Jury, I ask that when you have determined this case that your conduct shall have been such as to elicit the approval, not only of your fellow citizens in this community, but the people of all communities who have kept watch upon the progress of this trial, that your conduct may be evidence of a genuine, a tender and a reverent solicitude for the dignity and the majesty of the law.

Mr. Penney. I ask your Honor to charge the Jury that the law presumes every individual sane.

THE COURT. The law in this case presumes that the defendant was sane.

Mr. Penney. I ask your Honor to charge the Jury that the burden of overthrowing the presumption of sanity and of showing insanity is upon the person who alleges it.

THE COURT. The burden of showing insanity is upon the person who alleges it. Is that all?

Mr. Titus. You do not want that charged in that way?

Mr. Penney. I concede that that last part be stricken out. The counsel objects to it.

THE COURT. The burden in the first place, Gentlemen of the Jury, upon that proposition is with the defendant to give some evidence tending to show insanity on his part, or irresponsibility; but in that connection, when evidence of that kind is given, if it is given

at all, it is incumbent upon the People to rebut or meet it with other evidence and remove all doubt in your minds—all reasonable doubt in your minds upon the subject.

Mr. Titus. I did not intend to ask your Honor to charge anything before the counsel got up to request your Honor to charge, but I now ask your Honor to charge that if the Jury are satisfied from all the evidence in the case that at the time of the committing of this assault he was laboring under such a defect of reason as not to know the quality of the act he was doing or not to know the act was wrong, that then he is not responsible and they must acquit him.

THE COURT. I so charge. I intended to make it very plain to the Jury in the first place. Is that all, Judge Titus?

Mr. Titus. That is all, sir.

THE VERDICT AND SENTENCE.

THE COURT. You gentlemen may now retire with the officers.

The Jury retired at 3:50 P. M. and returned into court at 4:25 P. M.

The Clerk. Gentlemen of the Jury, have you agreed upon a verdict?

The Foreman. We have.

The Clerk. How do you find?

The Foreman. Guilty of murder in the first degree as charged in the indictment.

The Clerk. Gentlemen, listen to your verdict as the Court has recorded it. You say you find the defendant guilty of murder in the first degree as charged in the indictment. So say you all?

The Jury. We do.

THE COURT. That ends your service, Gentlemen of the Jury, in connection with this case. You are excused.

September 26.

Mr. Penney. I move sentence in the case of The People against Leon F. Czolgosz, your Honor. Stand up, Czolgosz.

The Crier. Put your right hand on the Book.

The Clerk. You do solemnly swear that you will true answers make to such questions as shall be put to you touching your name, your place of birth and occupation and such other questions as shall be asked you, so help you God?

Mr. Penney. Leon, how old are you? 28. Where were you born? Detroit. Where did you live last? Buffalo. Do you know the street and number? Broadway. At Nowak's? Yes, sir. Have you any trade or are you a laborer? Laborer. Are you married? Single. What schools have you attended? Small—common school. Been to the church school, too? Yes. Catholic church? Yes. What church were you educated in? Did you use to go to the Catholic church? I did. Are your father and mother alive? No, sir. Which is dead? My mother is dead? Your father is living? Yes, sir. Are you temperate? Do you know what that means? No, sir. Do you

drink intoxicating liquors much? No sir, don't drink too much. Have you been in the habit of getting drunk? You are not, are you?

THE COURT. Pass to something else, Mr. Penney.

Have you been convicted of any crime before this? No sir.

The Clerk. Have you any legal cause to show why sentence of the Court should not now be pronounced against you?

The Prisoner. Can't hear that.

THE COURT. People in the room should remain absolutely quiet and those who are unwilling to do that until the proceeding here is terminated should retire from the room at this time.

The Clerk. Have you any legal cause to show why sentence of the Court should not now be pronounced against you?

The Prisoner. I would rather have this gentleman speak, over here (Mr. Penney).

Mr. Penney. The Clerk asks you if you have any legal cause to show why sentence should not now be pronounced against you? Do you understand?

The Prisoner. No sir.

Mr. Penney. He wants to know if you have any reason to tell the Court why you should not now be sentenced—say anything to the Judge. Have you anything to say to the Judge before sentence? Say yes or no, if you have.

The Prisoner. Yes.

THE COURT. In that behalf, Czolgosz, what you have a right to say relates explicitly to the subject in hand here at this time, and the legal causes which the law provides that you may claim in exempting you from having judgment pronounced against you at this time are defined by statute. The first is, that you may claim that you were insane; the next is, that you have good cause to offer either in arrest of the judgment about to be pronounced against you or for a new trial. Those are the grounds specified by statute upon which you have the right to speak at this time, and you are at perfect liberty to do so freely.

The Prisoner. I have nothing to say about that.

THE COURT. Have you anything to say in behalf of the prisoner, Judge Titus?

Mr. Titus. I have nothing to say within the definition your Honor has read, as to what we can say, but it seemed to me that in order that innocent people should not suffer by this defendant's crime, that the Court should permit him to exculpate, at least his father and brothers and sisters.

THE COURT. Certainly, if that is the object of any statement that he will make.

Mr. Titus. That is what he tells me.

THE COURT. Proceed, Czolgosz.

The Prisoner. I would like to say this much; that the crime was committed by no one else but me; no one told me to do it and I never told anybody to do it.

Mr. Titus. Your father had nothing to do with it?

The Prisoner. No sir; not only my father, but there hasn't any-

body else had nothing to do with this. I never told anything to nobody; I never told anything of that kind. I never thought of that until a couple of days before I committed the crime.

THE COURT. Anything further, Czolgosz?

The Prisoner. No sir.

THE COURT. Czolgosz, in taking the life of our beloved President you committed a crime which shocked and outraged the moral sense of the civilized world. You have confessed your guilt, and, after learning all that can at this time be learned of the facts and circumstances of the case, twelve good men have pronounced your confession true and have found you guilty of murder in the first degre. You declare, according to the testimony of credible witnesses, that no other person aided or abetted you in the commission of this terrible act. God grant it may be so. The penalty for the crime of which you stand convicted is fixed by statute, and it now becomes my duty to pronounce its judgment against you. The sentence of the court is that in the week beginning October 28, 1901, at the place, in the manner and by the means prescribed by law, you suffer the punishment of death.

When Czolgosz returned to his cell after his conviction he ate a hearty supper and soon thereafter went to bed and slept continuously until midnight, when the guard was changed, when he awoke for a few minutes, and then slept again until 6 A. M., when he arose and took a short walk in the cell corridor, after which he made a careful toilet, and at 7:30 partook of a hearty breakfast. He talked freely as usual on ordinary topics, but maintained his usual silence concerning his crime and would not talk of the trial.

On September 26, he was removed from the Buffalo Jail to the State Prison at Auburn, N. Y., where he was confined in a death cell until his execution.

Here he was examined by Dr. Gerin, the Prison physician, and again by Dr. MacDonald, who found nothing to alter the previous decision of all the experts that had examined him that he was sane.

THE EXECUTION.

Czolgosz was executed by electricity on the morning of October 29, 1901. The official witnesses, consisting of the Superintendent of State Prisons, and other prominent New York State officials, several physicians, three representatives of the respective press associations, Dr. Spitzka and others and the official physicians—Dr. John Gerin, Prison Physician, and Dr. MacDonald—having been assembled in the execution room and having received the usual admonition from the Warden as to maintenance of order during the execution, the prisoner was conducted to the room a few minutes after 7 A. M. Every

precaution was taken by the Warden, who had immediate charge of the execution, to minimize the opportunity for notoriety or sensationalism on the part of the prisoner as well as to insure that his taking off should be effected in an orderly and dignified manner.

As Czolgosz entered the room he appeared calm and self-possessed, his head was erect and his face bore an expression of defiant determination. The guards, one on either side, quietly and quickly guided him to the fatal chair, the binding straps were rapidly adjusted to his arms, legs and body, and the head and leg electrodes were quickly placed *in situ* and connected with the wire which was to transmit the lethal current through his body. These preliminaries occupied about one minute. Czolgosz offered no resistance whatever, but during the preparations addressed himself to the witnesses in a clear, distinct voice in the following language: "I killed the President because he was the enemy of the good people—the good working people. I am not sorry for my crime." At this moment, everything being in readiness, the Warden signaled the official electrician in charge of the switch, who immediately turned the lever which closed the circuit and shot the deadly current through the criminal's body, which was instantly thrown into a state of tonic spasm involving apparently every fibre of the entire muscular system. At the same time, consciousness, sensation and motion were apparently absolutely abolished.

Two electrical contacts were made, occupying in all one minute and five seconds. In the first contact the electromotive pressure was maintained at 1800 volts for seven seconds, then reduced to 300 volts for twenty-three seconds, increased to 1800 volts for four seconds and again reduced to 300 volts for twenty-six seconds—one minute in all—when the contact was broken. The second contact, which was made as a precautionary measure, but which was probably unnecessary, was maintained at 1800 volts for five seconds. That conscious life was absolutely destroyed the instant the first contact was made, was conceded by all of the medical wit-

nesses present; also that organic life was abolished within a few seconds thereafter.

Czolgosz was pronounced dead by the attending physicians and several of the other physicians present, after personal examination, in four minutes from the time he entered the room; one minute of this period was occupied in the preliminary preparations, one minute and five seconds in the electrical contacts, and the remainder of the time in examinations by the physicians to determine the fact of death.

The autopsy was made by Dr. Edward A. Spitzka under the direction of the official physicians—Drs. Gerin and MacDonald of the College of Physicians and Surgeons, New York City. The examination occupied about four and a half hours and embraced a most careful, gross examination of all the viscera, attention being especially directed to the brain and its meninges. The autopsy revealed no evidence whatever of disease or deformity of any of the bodily organs, including the brain, which was normal in size, shape, weight and appearance and was well developed in all respects,—a conclusion which was concurred in by all of the physicians present, several of whom had witnessed the execution.